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Long-Awaited Justice and Lasting Protection for Shia Muslims in Iraq: Recognizing the Tragedy of Karbala Through the Mechanisms of Transitional Justice

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Abstract

Since the beginning of its reign of terror in Iraq, the Islamic State has been targeting Shias and encouraging sectarian violence between Shias and Sunnis, based on past memories of violence and the instrumentalization of the Battle of Karbala, which is an ancient conflict that has become a part of Shia identity and ethos. This thesis analyses the dynamics of Shia persecution in Iraq during the regimes of Saddam Hussein and the Islamic State, and shows that history has been present at the heart of this national conflict. It argues that addressing the historical roots of violence, which can be found in the Battle of Karbala, through the mechanisms of transitional justice might be a way of encouraging reconciliation between Iraqi Shias and Sunnis, and help guarantee durable peace and nonoccurrence of violent outbreaks in the country. This paper provides an analysis of the pertinent transitional justice theories and mechanisms, which include historical commissions and memorialization, and applies the theoretical framework to the case of Karbala by offering tentative suggestions regarding the workings of the process in Iraq, such as the creation of a shared historical narrative and the building of memorials.

Introduction

" I will not conclude without commending the brave lions of creed, the soldiers of the Caliphate, those in Baghdad, in its north and south, who are holding onto hot coals, who are firmer than stone, those who humiliate the *Rafidah* {Shias} in their strongholds and their major fortresses every day. How good you are! (…) Your next engagement, by Allah's permission, will be (…) Karbala." [1]

Abu Bakr al-Baghdadi*,* leader of the Islamic State, 2015

On May 14, 2015, Islamic State [2] leader and self-proclaimed caliph Abu Bakr al-Baghdadi uttered the words above in an audio speech in which he encouraged all Muslims to wage war against all atheists and enemies of Islam, including the Shia Muslim population. In fact, he commended his disciples' assaults on the Shias, and congratulated those who made them "swallow cups of humiliation and bitterness." [3] His speech, being a general call to arms, also stood as a call to oppression and persecution of the Shia majority in Iraq, especially in the city of Karbala, where the population had already faced an oppressive massacre and human rights violations during a historical battle in 680AD. By mentioning the event of Karbala, al-Baghdadi, as the perpetrator, not only recalled that the Shias have already been victims of human rights atrocities in the past, but also that the latter have never been recognized and condemned. Mentioning Karbala in this context, and explicitly ordering a reproduction of history, inevitably awakens strong memories of injustice and violence within the Shia population, and shows that the event still retains importance for both the perpetrators and the victims.

The tales of Shia repression, from the early years of Islam to Saddam Hussein's regime and the rule of the Islamic State, can be traced back 1400 years to the historical

[1] This citation is taken from the English translation of Al-Baghdadi's speech, which was released by the Islamic State's media company al-Furqan on May 14, 2015. The group itself provided the translation of the audio speech, originally
[2] For practical purposes, the appellation "Islamic State" will be used throughout this thesis to refer to the terrorist organization. The use of this term does not legitimize the purpose or actions of the group in any way.
[3] Al-Baghdadi, Abu Bakr. "March Forth Whether Light or Heavy." May 14, 2015.

Battle of Karbala, an event that has become an integral part of the Shias' identity and a tool of resistance and empowerment against their oppression today. While the battle is an accepted historical event by both Shias and Sunnis, it is not commemorated in similar ways or given the same significance and thus becomes a source of dissent. To the Shias, Karbala is regarded as the greatest tragedy in the history of humanity during which Hussain, the Prophet's grandson and third Shia Imam, son of 'Ali, leader of the Shias Muslims and first Imam and caliph, was martyred by the army of Umayyad caliph Yazid I after the former led a revolutionary movement against the latter's tyrannical government. Over the centuries, Hussain's martyrdom has been the most passionately commemorated event in the Shia world due to the former's importance as the Prophet's descendant, and plunges the entire community into mourning during the months of Muharram and Safar in the Islamic calendar. Through diverse types of rituals, including processions and theatrical representations of the event, called *ta'ziyeh*, believers clad in black remember Hussain's murder, and deplore the injustices that were committed on him and his family. On the other hand, while the Sunnis also condemn the event of Karbala and hold Imam Hussain in high esteem, they do not publicly commemorate his death and find that the mourning process is exaggerated. Instead of commemorating Ashura on the tenth of Muharram, most Sunnis fast in remembrance of Moses and live the day in joy and gratitude as they celebrate the freedom of the sons of Israel from Pharaoh, their enemy in Egypt. Tensions between the groups around the event are further exacerbated by Shia accounts of the battle recalling the fact that when Hussain's severed head arrived in Damascus, the Umayyad and their people celebrated and declared a national holiday on that day. Hussain's women and children, made captives, were left

standing near the gates for three days, while the people of Damascus decorated the city. About fifty thousand men and women, wearing bright colorful clothes, left their houses and danced in the streets to the sound of tambourines and flutes, a behavior that contrasts greatly with the Shia rituals of mourning on the same day, for the same event. The most controversial events in Islamic history, such as the succession of the Prophet and the Battle of Karbala, have led to a schism between the two denominations of Islam, and have made the construction of a shared historical narrative, in which the idea of victimhood would be uncontested, quite difficult to achieve. Along with the dissenting opinions about Karbala, the beginning of the Shia-Sunni division, also referred to as the Great Schism, must first be discussed in order to understand the fundamental differences between the sects, and their role in modern conflicts and atrocities later discussed.

Shia Islam formally started at the time of Prophet Muhammad's death in 632, when difference of opinion regarding the succession of the latter as the new leader of the *Ummah*, or Islamic community, divided the Muslim world. The Sunnis are therefore recognized as the followers of the three elected Rashidun caliphs, Abu Bakr as-Siddiq, 'Umar ibn Khattab and Uthman ibn Affan, while the Shias are supporters of Ali ibn Abi Talib, the Prophet's son-in-law and the first Imam, who they believe was designated as successor by the Prophet himself right before his death during the event of Ghadir Khumm. It is reported in both traditions that during this episode, the Prophet made a statement in which he said that whoever regarded the Prophet as his master (*mawla)* should also regard 'Ali as his master.

While the episode of Ghadir Khumm is narrated in both Shia and Sunni traditions, subtleties in the meaning of certain words and different interpretations of the Prophet's

announcements regarding the prominence of ‘Ali and his family have led to dissenting opinions among Shias and Sunnis regarding the nomination of the latter as successor. Narrations from both denominations recognize that the Prophet made several statements in which it was quite clear that ‘Ali was his rightful successor. In one tradition, the Prophet is reported to have told ‘Ali, “Are you not content to be with respect to me as Aaron was to Moses?” [4] implying that ‘Ali would be his representative after him, just as Aaron had been to Moses. Sunni traditions do not dispute that such statements were made or that the event of Ghadir, among others, occurred but point to the fact that great honors and equal praise were given to Abu Bakr, ‘Umar, and Uthman, who were close companions of the Prophet. Historical accounts narrate that right after the death of the Prophet in Medina, while ‘Ali and his wife Fatimah were occupied with the funeral, powerful Arab clans reunited in a place called Saqifa and elected Abu Bakr as the next ruler of the Islamic nation. ‘Ali, refusing to divide the Prophet’s *Ummah* and create greater factions, did not claim his right to the caliphate right away and retracted himself from the political scene, only rarely participating when summoned by the first three Rashidun caliphs. In 656, ‘Ali ultimately ascended to the position of caliph by popular acclamation and became the fourth Rashidun.

Believing that the succession of the Prophet was decided hastily and by political maneuvering rather than religious consideration and justice, the Shias have constantly opposed the established political order and recognize themselves as the party of ‘Ali and the supporters of truth against injustice. While Sunnis recall the first three caliphs as “epitomes of Islamic piety and paragons of wise rule,” [5] the Shias view them as usurpers

[4] Momen, Moojan. *Shi’i Islam.* London: Oneworld Publications, 2016.
[5] Ibid.

of ‘Ali’s rightful position. Ever since, the Shia branch is recognized through the coalescence of two main trends. In the political realm, they are the “underdogs, the downtrodden trying to assert themselves against the powerful elite of the Islamic Empire,” [6] and in the religious one, a political process movement that is centered on the Prophet and his family’s suffering and martyrdom. The massacre of Hussain at Karbala by the powerful Umayyad government, and the mistreatment of his women and children in the aftermath of the battle consolidated the Great Schism, and marked the peak of Shia oppression in Islamic history. While ‘Ali’s claim to leadership was understood by many, it is Hussain’s martyrdom that affected the hearts and added a powerful religious dimension to the movement of political opposition that characterizes the Shia branch. The Battle of Karbala has become a core component of Shia collective memory, a concept that John Gillis defines as a representation of the past that “fosters and defines group identities, telling a group of people where they have come from, who they are and how they should act in the present and the future.” [7] Alexandra Barahona de Brito adds in a reinforcing claim that “people do not act only according to strategic calculations, but in the light of the memories and narratives they have adopted and that make sense to them as members of a particular memory group.” [8] Kamran Scot Aghaie has established in his work that the event of Karbala transcends the barriers of time and space for the Shias [9], given the strong affection and religious ties that they share with their infallible Imams.

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[6] Ibid.
[7] Gillis, John R. *Commemorations: The Politics of National Identity*. Princeton, NJ: Princeton UP, 1994. Gillis is Professor Emeritus of History at Rutgers University.
[8] Barahona de Brito, Alexandra. “Transitional Justice and Memory: Exploring Perspectives,” *South European Society and Politics* 15 (3): 359-371. Barahona de Brito is a researcher and editorial advisor. She has made various contributions to the fields of transitional justice, human rights and European-Latin American relations.
[9] Aghaie, Kamran Scot. *The Martyrs of Karbala: Shi'i Symbols and Rituals in Modern Iran*. Seattle: U of Washington, 2004. Aghaie is a professor of Islamic history at the University of Texas at Austin.

While the Shia population is diverse, it is united through the remembrance of Karbala and a strong memory of discrimination, both in politics and fundamental rights.

It would not be an exaggeration to say that history is often at the heart of national conflicts today, and al-Baghdadi's aforementioned statement is a proof of this claim. Lesley Hazleton writes that "the Karbala story is indeed one without end, still unfolding through the Muslim world, and most bloodily of all in Iraq, the cradle of Shia Islam." [10] Indeed, it can be argued that the atrocities perpetrated in Karbala against Hussain and his people, who were all of course Shia, are recurrent and similar to the human rights violations that the Islamic State is inflicting on Iraq's majority nowadays. The aforementioned quote by al-Baghdadi makes a direct reference to the event of Karbala, and encourages his army to recreate the scene against Shias in contemporary Karbala. In fact, several parallels can be drawn between the events of the past and those of today. For instance, the terrorist group has been slaughtering Shias because it considers them heretics and atheists; Hussain and his family were also massacred for the values and beliefs that they held. Today, the Islamic State plunders Shias in Iraqi cities such as Zawba, similar to how Hussain's women and children were looted by Yazid's men after the battle. The Islamic State humiliates and strips Shia and other women from minority groups of their rights by selling them as slaves in a flourishing market, and putting a price on their bodies; after Karbala, Hussain's women were forcibly paraded in the streets of Kufa and Damascus without their *hijab*, and shown off to a crowd that insulted and celebrated the oppression that they were facing. Furthermore, when Saddam Hussein was asked about his reasons for killing Shia intellectual and activist Amina Sadr bint al-Huda,

[10] Hazelton, Lesley. *After the Prophet: the Epic Story of the Shia-Sunni Split in Islam.* New York, Doubleday, 2009. Hazelton is a British-American author who has extensively worked on Islamic politics and religion.

he answered by stating an example from the Battle of Karbala. In fact, it is reported that when asked to spare her life, Hussein instantly remarked, "kill the brother and spare the sister? You want me to make the same mistake as Yazid?" [11], alluding to the fact that Hussain's sister Zainab became the leader of her brother's revolutionary movement after the Battle of Karbala, while she should have been killed by the caliph of her time. All of these examples demonstrate that the event of Karbala, which has not been formally recognized through legal means, is used as a tool of reference by anti-Shia groups in order to perpetrate human rights violations against a religious sect that has been suffering atrocities throughout history.

Given the background of continuous Shia targeting in Iraq, the aim of this thesis is to provide an analysis of the massacre of Karbala through the theoretical framework of transitional justice, and use the mechanisms of truth and reconciliation to attain recognition, with the hope that such acknowledgement might help ensure the lasting protection of the vulnerable Shia population in Iraq today. Transitional justice is recognized as the judicial and non-judicial means of "dealing with the aftermath of violent conflicts and human rights abuses in order to provide for a peaceful future." [12] The term encompasses actions that not only seek to punish perpetrators by putting them on trial, but also focus on victims and society. Transitional justice is a process that helps victim societies deal with the legacy of past injustices, and comprises methods such as truth commissions, memorialization, education, material and non-material compensations, and the construction of a shared historical narrative. In fact, these means

[11] Al-Sadr, Muhammad Baqir. *A General Outlook at Rituals: A Study in the Philosophy of Islamic Rites*. Washington, D.C.: Islamic Revival Movement, 1981.
[12] Bonacker, Thornsten, and Susanne Buckley-Zistel. "Introduction: Transitions from Violence – Analyzing the Effects of Transitional Justice." *International Journal of Conflict and Violence* 7.1 (2013): 4-9.

of recognition are centered on the victims rather than the perpetrators. One of the most important aspects of transitional justice is that it does not solely recognize the wrongs perpetrated on the direct victims of atrocities, but also addresses the burdens of the past that an entire community has to bear in the aftermath of a conflict. The recognition of historical injustices is primordial in order to ensure the viability, peace and security of a people that has lived a violent past. In fact, according to Elazar Barkan, "the denial of a historical narrative of gross violations of human rights and suffering is often an affront to national identity and is a sure prescription for inciting conflict."[13] Recognizing and guaranteeing non-occurrence of the atrocities at Karbala through the mechanisms of transitional justice is thus a way of honoring the identity of today's Shia population, addressing its call for acknowledgment, and making a first step towards durable peace and lasting protection against human rights atrocities in Iraq and elsewhere.

History and Past Grievances: At the Heart of the Islamic State's Anti-Shia Policies in Iraq Today

In 2014, Abu Muhammad al-'Adnani, the Islamic State spokesperson, used matching violent and sectarian rhetoric regarding the treatment of Iraqi Shias as al-Baghdadi constantly does in his speeches. The Islamic State's approach to history and its use of past events to fuel contemporary conflicts stand as vivid examples of the importance of history in present-day situations, and show that the Shias are under the threat of reliving another Karbala as a result of ancestral grudges. On September 21,

[13] Barkan, Elazar. "Historical Dialogue and the Prevention of Atrocity Crimes," in Rosenberg, Sheri's *Reconstructing Atrocity Prevention*. Cambridge University Press, 2015. Barkan is a Professor of International and Public Affairs and the Director of the Human Rights Concentration at Columbia University's School of International and Public Affairs.

2014, al-'Adnani issued a lengthy statement in which he called for repetitive attacks on Shia families and homes, tacitly referring to the settlement of political grudges and historical scores and making the strategy of Shia targeting a key component of the Islamic State's insurgency. He stated in his declaration, "O Sunnis of Iraq, the time has come for you to learn from the lessons of the past, and to learn that nothing will work with the *Rafidah* other than slicing their throats and striking their necks." [14] He went on to command that a range of human rights violations be perpetrated against them, ordering the soldiers of the Islamic State to "raid their homes. Cut off their heads. Do not let them feel secure. Hunt them wherever they may be. Turn their worldly life into fear and fire. Remove their families from their homes and thereafter blowup their homes." [15]

Al-Adnani and al-Baghdadi's threats, mainly animated by a Salafi-Jihadi religious ideology, historical grievances, as well as the desire to create and retain a traditional historical caliphate inhabited by a "legitimate" constituency, set the grounds for the selective killing and oppression of Iraqi Shias. The attacks led by the terrorist group have constantly targeted not solely the Shia militia, but the civil population and their places of worship as well. By destroying seven Shia sacred places and shrines in June 2014, as stated in a report issued by Human Rights Watch [16], the Islamic State has explicitly violated Shia believers' right to religious practice in public and private, and their freedom to manifest their beliefs in worship, practice and observance as dictated in Article 18 of the Universal Declaration of Human Rights [17] and the corresponding article of the Covenant on Civil and Political Rights. Furthermore, according to reports and news

[14] Spencer, Robert. *The Complete Infidel's Guide to ISIS*. Washington DC: Regnery, 2015. Print.
[15] Ibid.
[16] *Iraq: ISIS Kidnaps Shia Turkmen, Destroys Shrines*. Rep. Human Rights Watch, 27 June 2014.
[17] Enshrined in the Universal Declaration of Human Rights, the fundamental right to religious freedom is articulated in Article 18.

articles, the Islamic State frequently executes Shias, sometimes through mass killings as occurred in the city of Tikrit, and engages in selective targeting by checking the identity cards of their captives and separating Shias from Sunnis, based on their patronymics. The group does not make any sort of distinction between combatants and civilians, or men, women and children during the attacks, which thus qualify as war crimes and crimes against humanity under the Statute of the International Criminal Court and the four Geneva Conventions [18], which are important in times of warfare. From the beginning of the group's involvement in Iraq under the leadership of Abu-Musab al-Zarqawi until today, the Shias have been a constant target of the Islamic State and have been suffering from its oppressive practices and repetitive persecution.

Historical grievances and sentiments of revenge have certainly been significant in encouraging violence against the Shias. According to Barkan, the role of history becomes more apparent in conflicts when those are shaped more by "local animosities, regional considerations, popular myths and ethnic interests" [19] than global politics. Alexander Aviña, in an attempt to explain the rationale behind sectarian and selective violence, has found that past specters of insurgencies who have not been successful at attaining a certain political goal, have left a legacy of unanswered grievances and sentiments of revenge that help mobilize future generations to take action, and fulfill the promise that their ancestors could not. Giving the example of the guerillas during the Mexican Revolution of 1910, he theorizes that the former "learned that unredeemed longings, aspirations and vengeance could mobilize a robust base of popular support for guerilla

[18] For instance, the Rome Statute of the International Criminal Court provides an extensive definition of crimes against humanity and war crimes in Articles 7 and 8 respectively.
[19] Barkan, Elazar. "Historical Dialogue and the Prevention of Atrocity Crimes." *Reconstructing Atrocity Prevention*. Cambridge University Press, 2015.

insurgency." [20] At the same time, Aviña stipulates that leaders of armed groups and their supporters can communicate and share a specific ideology based on a framework created by "shared historical experiences, memories, blood ties, and dialogue," [21] which enables them to carry out violence on a specific group based on quasi-homogeneous incentives. Furthermore, in his study of political violence, Stathis Kalyvas finds that most of the time, if not always, violence is carried out locally and personally on an intimate level. He hypothesizes that insurgents often use the opportunity of a civil conflict to satisfy their thirst for vengeance, settle ancestral scores, and fulfill historical promises of retribution. As he writes regarding civil wars, they "can be understood as processes that provide a medium for a variety of grievances to be realized within the greater conflict, particularly through violence." [22]

An example of this is the 1915 Armenian genocide, where one of the reasons for the killing of the Armenians was based on history. Eric D. Weitz writes that "modern genocides (…) are the result of political decisions executed at moments of crisis, but they are also embedded in complex historical processes." [23] Indeed, a decline in the power of the Ottoman Empire and military defeats experienced in the early stages of World War I caused the ruling power to label the minority Armenian population, which occupied important positions in the economy, as scapegoats and the ones accountable for the empire's loss of glory in the midst of contemporary European hegemony. Another more well-known and well-studied example is, of course, Hitler's targeting of the Jews during

[20] Aviña, Alexander. *Specters of Revolution: Peasant Guerrillas in the Cold War Mexican Countryside*. New York: Oxford University Press, 2014. Aviña is a Professor of History at Florida State University.
[21] Ibid.
[22] Kalyvas, Stathis. "The Ontology of "Political Violence": Action and Identity in Civil Wars." *Perspective on Politics* 1(3): 475-494. 2003. Kalyvas is Arnold Wolfers Professor of Political Science at Yale University.
[23] Weitz, Eric D. *A Century of Genocide: Utopian Race and Nation.* New Jersey: Princeton University Press, 2003. Weitz is Distinguished Professor of History at the City College of New York.

World War II, where past enmity against the Jews and Aryanism fueled the Nazis' racial policies and led to the Holocaust. Not only did Hitler blame the Jews for all of Germany's political, social and economic issues, but he also described them as "the Jewish virus (…) how many diseases have their origin in the Jewish virus! We shall regain our health only by eliminating the Jew." [24] He also made a reference to the lessons and "errors" of the past, errors that must not be committed in the Third Reich, in *Mein Kampf* by writing that "history shows with terrifying clarity that in every mingling of the Aryan blood with that of lower peoples, the result was the end of the cultured people." [25] Furthermore, Mike McGovern applies Kalyvas' theory in his study of political violence in Côte d'Ivoire, and explains that the motives of armed groups are heterogeneous and often include the settlement of scores. While some members take part in the conflict in order to protect their home communities and minority groups such as women participate for the adventure of being fighters, others join in order "to avenge the deaths of loved ones." [26] Citing Paul Collier, McGovern concludes that "gradually, the composition of the rebel group will shift from idealists to opportunists to sadists." [27] These theories of rational violence can be applied to the Islamic State and its treatment of the Iraqi Shia majority today as the group makes it clear in its statements that it uses past historical grievances, based on religious, political and sectarian strife, to fuel and justify the mistreatment of the sect.

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[24] Weitz, Eric D. *A Century of Genocide: Utopian Race and Nation.* New Jersey: Princeton University Press, 2003. Weitz is Distinguished Professor of History at the City College of New York.
[25] Ibid.
[26] McGovern, Mike. "Popular Development Economics—An Anthropologist among the Mandarins." *Perspectives on Politics* 9(2): 345-355. 2011. McGovern is a Professor of Political Anthropology at the University of Michigan.
[27] Collier, Paul. *The Bottom Billion: Why the Poorest Countries Are Failing and What Can Be Done About It.* New York: Harper Perennial, 2009. Collier is Professor of Economics at the University of Oxford.

In fact, alienating discourse against the Shias from the rebel group has often carried distinct reference to history, and it is due to this instrumental rhetoric that Iraqi Sunnis, many of them trapped in the conflict, now regard Shias as opponents. For instance, during a sermon delivered at a Fallujah mosque in July 2015, an Islamic State cleric swore that the conflict had no other root but an ideological one. He stated in front of an audience of combatants but also Sunni civilians, "you should know, oh servants of Allah that our enmity with the Rafidites (Shias) and the Zoroastrian Persians is not of a material or political nature. It is an ideological enmity that goes back a long time." [28] This ideological feud obviously refers to the succession of 'Ali and the consequent division that it created. Correspondingly, the Islamic State echoes the words and thoughts of the Umayyad army at the time of the massacre of Karbala, which they justified and understood as a legitimate act of revenge against 'Ali, who was known as the most valiant warrior on the battlefield and the one who fought and won the battles Badr and Ohod against the enemy clans during the time of the Prophet. The opposing armies at the time counted several ancestors of the Umayyad dynasty, such as Abu Sufyan and Hind, Yazid I's grandparents. Cheikh Abbass Ghomi reports in *Nafass'ol Mahmoum* that in the aftermath of the battle, Hussain's family was enslaved and brought to the palace of Obeydollah ibn Zyad, the governor of Kufa. Before imprisoning them, the latter passionately declared, "today marks my revenge for the day of the Battle of Badr!" [29] Furthermore, it is recalled by some *hadiths* of the saga that when Marwan ibn Hakam, the governor of Madina, received the severed head of Hussain, he took it to the tomb of the

[28] Spencer, Robert. "ISIS Muslim Cleric Tells Shia: "Allah Willing, We Shall Slaughter You Like Sheep." *Jihad Watch,* 2015

[29] Cheikh Abbas Ghomi's *Nafasul Mahmoom - Relating to the Heart-Rending Tragedy of Karbala* (Qum, Ansariyan Publications, 2005. Translation by Farideh Mahdavi-Damghani). The translation of the quote from French is mine.

Prophet, violently threw it in the direction of the sepulcher and screamed, "Ô Mohammad! Here is our revenge for the fateful day of the Battle of Badr!" [30] Lastly, Ghomi relates in his recollection that when the prisoners arrived at the gate of Yazid's residence, they were preceded by soldiers who held long spears on top of which the heads of the martyrs were mounted. They entered first and praised Yazid on his accomplishment with a comment that held a genocidal connotation. They said, "we swear on our honor and the honor of our Emir that we have been able to destroy the race of Abu Torab ('Ali ibn Abi Talib)." [31] This statement, however, is not entirely correct since the fourth and fifth Imams, the grandson and great-grandson of 'Ali respectively, both survived the killings and were able to ensure the existence of their ancestor's progeny. The historical enmity that the Islamic State cleric referred to in his sermon is therefore not a novelty. As the preceding examples demonstrate, it has been at the heart of political and ideological conflicts throughout Islamic history, and continues to hold a central place in anti-Shia movements nowadays.

In 2005, al-Zarqawi carried out a strategy to provoke further alienation between the two groups on the basis of history, and led a campaign to enforce a boycott of the upcoming democratic elections in Iraq from the Sunni population. Knowing that after "centuries of ill-treatment, a Shia-Sunni reconciliation would prove difficult and that the historic distrust between the two communities would remain high," [32] this political strategy was put in place in order to further alienate the Sunni population from the Shia majority and proved to be successful, as less than one percent of the Sunnis cast a ballot in Anbar, a key province of Iraq. Unsurprisingly, the Shia majority won the election and

[30] Ibid, pg. 335
[31] Ibid, pg. 353
[32] Micallef, Joseph V. *Islamic State: Its History, Ideology & Challenge.* Antioch Downs Press, 2015. Kindle

Ibrahim al-Jaafari became Prime Minister, consequently receiving the responsibility of determining Iraq's post-war fate. This event marked the peak of Sunni political grievances as Iraq's minority group, and fueled strong feelings of rejection in the Sunni population, feelings that have been constantly present in hearts and memories since the Great Schism that took place after Prophet Muhammad's death. The Shias' victory in the elections enabled Zarqawi to present himself as the messiah, born to protect all Sunnis against the unjust behavior of the Shias. He called the Shia government a polity that would always enforce the sociopolitical grievances of Sunni civilians, and referring to history once again, described the Shias as "conspirators in a plot of antique vintage, the aim of which was the violent disinheritance of 1.3 billion Sunnis of the Islamic World."[33]

Moreover, Zarqawi has insisted on holding Shias and their beliefs accountable for past historical events, and has portrayed them as antagonists who consistently stood against Omayyad and Abbasid Sunni caliphs. In a speech that he made in 2004, he is known to have said that the Shias were responsible for the invasion of Muslim territories by the Mongols, and the subsequent destruction of Baghdad in the thirteenth century. He declared to his audience that the Shias "cooperated with the infidels and the (…) they were the main cause of the invasion of Muslim countries by Genghis Khan (…) they enjoy repudiating and cursing Muslim leaders, especially the Orthodox caliphs." [34] It is quite certain that in the course of Islamic history since the Great Schism, there has always been marked opposition in the political and ideological realms between the appointed Sunni-denominated caliphs, and the Twelve Shia Imams that the Shias consider the legitimate successors of the Prophet, due to the fact they are considered the infallible

[33] Weiss M. and Hassan H. *ISIS: Inside the Army of Terror.* New York: Regan Arts, 2015. Kindle
[34] Micallef, Joseph V. *Islamic State: Its History, Ideology & Challenge.* Antioch Downs Press, 2015. Kindle

progeny of the latter. Out of the Twelve Imams, ten of them were poisoned by the caliphs of their time. Hussain ibn Ali was murdered during the Battle of Karbala, and Mohammed Mahdi, the twelfth Imam, is believed to be the messiah in occultation who will return to end tyranny and world injustice. It is known from the analysis of Shia ethos that the Imams are "considered to have displayed (patient endurance of suffering) for at least part of their lives and the popular religious practices particularly emphasize the wrongs that they suffered at the hands of the Umayyad and 'Abbasid governments." [35] In Avina's theory, the Sunni-denominated caliphs of history might have become "those specters (who) at times demand revenge," [36] whose goals are being carried out by the Islamic State as unsatisfied historical grievances.

Going Back in the History of Shia Persecution: From the Islamic State to the Regime of Saddam Hussain

It is certainly not the first time in contemporary conflicts that Shias are being portrayed as heretics and apostates, or shunned for the religious values and beliefs that they hold by individuals and groups who relate to the Salafi ideology or make use of instrumental ideology for political purposes. Once again, the Shia-Sunni schism, which had already slowly begun after the Prophet's death due to differences of opinion over his succession, is still a reality and is being used by extremist groups to encourage sectarian violence between both denominations. As Joseph Micallef affirms, the Islamic State's involvement in Iraq has "made (it) the epicenter of a broader Sunni-Shia rivalry that

[35] Momen, Moojan. *Shi'i Islam.* London: Oneworld Publications, 2016.
[36] Aviña, Alexander. *Specters of Revolution: Peasant Guerrillas in the Cold War Mexican Countryside*. New York: Oxford University Press, 2014.

threatens to plunge the Muslim world into a global conflict." [37] Despite the fact that international human rights law grants religious freedom to all individuals in the Universal Declaration of Human Rights and Article 18 of the Covenant on Civil and Political Rights, and the Islamic doctrine actually protects religious minorities and their right to practice as conscience dictates [38], the normative ideology of the Islamic State prescribes that the Shia should be held accountable and punished for following a path of Islam that represents a false truth from a Sunni perspective, and also for supporting a government other than that of the Islamic State. In July 2014, the spokesman of the terrorist organization instrumentalized a verse of the Qur'an in order to legitimize the group's targeting of the Shias for ideological and political purposes. The answer, he said, resided in the Qur'an, in which God "speaks about the nearby enemy - those Muslims who have become infidels - as they are more dangerous than those who are already infidels." [39] Furthermore, thirteen-century theologian and founder of the Salafi branch, Ibn Taymiyyah, whose teachings form the basis of the Islamic State's ideology and actions, has made clear that the Shias must be fought. He affirms, "beware of the Shiites, fight them, they lie." [40] In a letter addressed to Ben Laden in 2004, former ISIS leader al-Zarqawi did not hide his desire to fight, oppress, humiliate, and engage in offensive *jihad* against Iraqi Shias, whom he considered "the insurmountable obstacle, the lurking snake, the crafty and malicious scorpion, the spying enemy, and the penetrating venom." [41] The unlawful and oppressive treatment of the Shia army and civil population by the Islamic

[37] Micallef, Joseph V. *Islamic State: Its History, Ideology & Challenge.* Antioch Downs Press, 2015. Micallef is a military historian and commentator on international politics.
[38] The Qur'an, which is the final word of God for all Muslims, summarizes the notion of religious freedom in one well-known verse, among many others: "let there be no compulsion in religion" (Qur'an 2:256).
[39] Benari, Elad. 2014. "ISIS: Fighting 'Infidels' Takes Precedence over Fighting Israel." *Arutz Sheva*.
[40] Weiss M. and Hassan H. *ISIS: Inside the Army of Terror.* New York: Regan Arts, 2015.
[41] Ibid.

State, being based on a normative and instrumental religious ideology that forms the core of the group's motives, still continues to this day with impunity and can be traced back even further to the dictatorial regime of Saddam Hussein.

In order to prove that Shia targeting has been consistent in Iraq during times of conflict under independent governments, it is perhaps fitting to note, as another example, that the sect was constantly at the heart of Sunni-dominated Ba'ath Party leader Saddam Hussein's (himself a Sunni) divisive policies and common orders of mass executions during his 24-year long rule. Wanting to consolidate his power after taking over the presidency in 1979, Saddam led a series of discriminatory practices against the Shia majority in order to keep them away from the political and social scenes, such as forbidding the *marja'iyya,* the highest authority of the Shias, to play a role in the government or banning Ashura processions which had become a political manifestation against tyranny. Schools were no longer allowed to include Shia Islam in the curriculum and many powerful clerics from Iranian decent were expelled and sent back to Iran, in the fear that they might stage a coup d'état against the regime with the support of the Iranian government. Apart from the fact that Saddam suppressed the Shia majority from acquiring any political power, he was also guilty of numerous human rights violations against them that were later recognized before the law as crimes against humanity. While actual numbers cannot be given with certainty, as no international or national investigations regarding executions and disappearances have ever been documented, "the forceful removal of an estimated 140,000 Shi'a from the Marshland region on the Iranian border" [42] is an indisputable fact that violates international customary humanitarian law, Additional Protocols I and II, and Articles 3 and 27 of the Geneva Convention (IV),

[42] Bassiouni, M. Cherif. "Postconflict Justice in Iraq." *Human Rights* 33.1 (2006).

which concern the prevention of the forceful displacement of civilians. The Dujail case, in which Saddam had been sentenced to death before the decision was reconsidered, proved that he had reviewed and approved the execution of 148 people from the Shia-populated town of Dujail. Ever since the coup d'état of 1968, in which Saddam played a decisive role before ascending to power eleven years later, the Shias' cultural, religious and political rights have been restrained. Targeting against the Shia civil population had been especially more persistent during the Iran-Iraq War of 1980 and the Gulf War of 1991. During the eight-year long Iran-Iraq War, Saddam ordered the imprisonment and killing of 300,000 Shia young men who he accused of being part of al-Dawa, the largest underground political organization, as well as the forcible relocation of "tens of thousands of Shia (…) to Iran" [43], fearing that they might form a coalition with Iran's Shia-dominated government and threaten to overthrow the ruling Ba'ath Party. The divisive ideology that was used by Saddam to legitimize Iraq's invasion of Iran led to the institutionalization of sectarian identities and generated conflicts over each group's power, status, and border claims. This geopolitical strategy not only affected Shia-Sunni relations and the outcome of the war, but also contributed to the tense sectarian climate that is central to the success of the Islamic State in the region today, as "sectarianism remains a tool employed to achieve political and geostrategic advantages and ultimately, regional dominance." [44]

In 1980, in order to maintain political hegemony and prevent any opposing action against his government, Saddam ordered that Shi'a cleric and respected leader Grand

[43] "Modern Conflicts: Conflict Profile - Iraq (Shia) (1979-1999)": 1-2. Political Economy Research Institute (University of Massachusetts Amherst).
[44] Hamrah, Satgin. "Sectarianism and Conflict: Legacies of the Iran-Iraq War." *Journal of Middle Eastern Politics and Policy* (2016). *Harvard Kennedy School of Government.*

Ayatollah Muhammad Baqir al-Sadr be imprisoned, tortured and murdered after the publication of a defense of the 1979 Iranian Revolution. It has been reported that he was killed with an iron hammered into his head, after being forced to watch his sister Amina Sadr bint al-Huda's torture and murder. [45] Additionally, in the wake of the Gulf War, Hussein violated international principles of civilian protection in times of war, as laid down in the Geneva Conventions, by ordering the destruction of shrines, homes, shops and religious institutions in Karbala, due to the emotional, historical and religious importance the city retained for Shias. At the same time, "Shia uprisings in the South were repressed by the Iraqi military, and thousands were killed and injured by indiscriminate firing in residential areas," [46] and the shrines of Hussain and 'Abbas in Karbala, where the headquarters of the insurgents were located, were severely damaged. During the time of the war, the Iraqi military continued to target Shia insurgents and civilians, both in Southern villages and along the Iranian border, and destroyed several mosques and places of worship, as well as sacred Shia manuscripts. As demonstrated by Saddam Hussein's regime and the Islamic State's violent rhetoric, which are fueled by historical enmity and divisions, it can be asserted that Iraqi Shias, sometimes referred to as "Iraq's oppressed majority," have been persecuted and denied legitimate political power and involvement throughout their country's conflictual history for nearly a century. [47]

[45] Myers, Paul D. "Review: Muqtada: Muqtada Al-Sadr, the Shia Revival and the Struggle for Iraq." *Arab Studies Quarterly* 31.3 (2009): 55-57.
[46] Ibid
[47] Cockburn, Andrew. "Iraq's Oppressed Majority." *Smithsonian Magazine*. Smithsonian, Dec. 2003.

The Roots of Shia Oppression in History: An Overview of The Battle of Karbala, Its Human Rights Violations and the Call for Justice

The Battle of Karbala arguably marks the beginning of Shia oppression in Islamic history, but has never been recognized through legal means for the various human rights violations and atrocities that were perpetrated during the conflict, and in its aftermath. As has been previously explained, the event retains importance for both the victims and the perpetrators. While Shias continue to commemorate and deplore the injustices that Hussain and his family had to face, anti-Shia groups, such as the Islamic State, use Karbala's symbol and the fact that it has never been acknowledged to continue their oppression on the Shia population with impunity. It must be kept in mind that the narratives of the Battle of Karbala are derived from Shia sources, given the importance and religious affiliation that the event holds for the Shia community, as opposed to the Sunni one. It should be noted that the story, as told in a Shia point of view, might be biased or exaggerated due to the strong religious sentiments that are tied to the battle, and that the information, being set far back in time, is impossible to verify. Given these limitations, the following account of the event is based on Cheikh Abbas Ghomi's *Nafasul Mahmoom - Relating to the Heart-Rending Tragedy of Karbala*, which is one of the most widely used narrative of Karbala by Shia scholars.

In 680 A.D, Hussain ibn Ali led a revolutionary social justice movement against Omayyad caliph Yazid I and refused to swear allegiance to his corrupt government. According to surviving sources, Yazid I, who was a fierce enemy of Ali ibn Abi Talib, was described from the Shia perspective as "morally corrupt, religiously impious, and

politically oppressive." [48] This description is supported by many Sunni historians including Ibn Kathir [49] and al-Dhahabi [50], who describe Yazid as "a drunkard who openly ridiculed and flouted the laws of Islam." [51] Hussain, on the other hand, was the grandson of the Prophet Muhammad and could not approve of a leader and government that upheld unjust social and political practices in the name of Islam. As he stated himself, "I am not rising against Yazid as an insolent or an arrogant person, or as a mischief-monger, or tyrant. I have risen against Yazid as I seek to reform the Ummah (Islamic Nation) of my grandfather. I wish to bid the good and forbid the evil."[52]

Oppressed under Yazid's dictatorial regime, the people of Kufa, a city in Southern Iraq, soon sent letters and messengers to Hussain in Madina, urging him to assume leadership and assuring him of their loyal support. Hussain refused to swear allegiance to Yazid, and after receiving letters from his supporters, sent his cousin Muslim ibn Aqil to Kufa to confirm the population's loyalty and support for his cause. In Kufa, large meetings took place and thousands of people pledged allegiance to Hussain. Learning of this, Hussain left the city of Medina with about fifty armed companions, his women and the children of his family. However, at the same time, the situation in Kufa changed. Yazid, upon hearing echoes of a planned rebellion against his government, sent Obeydollah ibn Zyad to take control of the town and instigate a reign of terror. Ibn Zyad brutally suppressed any sign of revolt, and ordered the capture and execution of Muslim

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[48] Aghaie, Kamran Scot. "The Origins of the Sunnite-Shi'ite Divide and the Emergence of the Ta'ziyeh Tradition." *The Drama Review* 49.4 (2005): n. pag. New York University and the Massachusetts Institute of Technology.

[49] Ibn Kathir was a highly influential Sunni scholar during the time of the Mamluk Sultanate in Syria. His most renowned work, *Al-Bidaya wa-n-Nihaya,* in which he writes about Yazid's caliphate, is one of the most important contributions to the field of Islamic history.

[50] Al-Dhahabi was a Syrian historian and biographer from the Sunni Shafi'i school of thought. His encyclopedia of Islamic history, *Siyar a'lam al Nubala',* contains a description of Yazid's behavior as caliph.

[51] Momen, Moojan. *Shi'i Islam.* London: Oneworld Publications, 2016.

[52] For purposes of clarity, this citation has been translated from French, and paraphrased by the author of this work. The original citation can be found in the French translation of Cheikh Abbas Ghomi's *Nafasul Mahmoom - Relating to the Heart-Rending Tragedy of Karbala* (Qum, Ansariyan Publications, 2005. Translation by Farideh Mahdavi-Damghani).

ibn Aqil. Anyone who showed support for Hussain was threatened with the same treatment. Armies were posted at the gates of Kufa and on southern routes to intercept Hussain's caravan, and military units received orders to block all the routes and issues in and out of the city to prevent anyone from leaving and joining Hussain's movement.

Hussain's party was stopped by a detachment of the Umayyad army and led to the scalding plain of Karbala, where ibn Zyad sent an army of four thousand men led by 'Umar ibn Sa'd with instructions not to allow Hussain to leave before he had taken the oath of allegiance to Yazid. Hussain and his men were surrounded by a large army of at least 30,000 men, and denied water from the Euphrates River for three days. After trying to negotiate for a settlement and a return to Madina, to which 'Umar ibn Sa'd did not agree, ibn Zyad sent his army orders to attack Hussain immediately. It is reported in the most widely accepted narratives of Karbala that Hussain pleaded for food and water for his children and tried to convince the army through powerful speeches, but his demands were rejected and met with violent responses. For instance, one way in which the army responded to his plea for water was by murdering Hussain's six-month-old infant, Abdallah, with a poisonous arrow. Along with his small army of 72 companions, Hussain was brutally massacred along with his family members on the tenth day of the Islamic month of Muharram, now known as Ashura. His body and those of his companions were ran over by horses, stripped of all clothing and pieces of jewelry and decapitated.

In the aftermath of the battle, following Hussain and his companions' martyrdom, "Yazid's troops stormed the camp where the women and children were staying, taking captives and setting the tents on fire. Those who survived the battle were then taken in

chains to Yazid's court in Damascus." [53] It is also narrated in Ghomi's *Nafasul Mahmoom* that the tents were looted, innocent children killed, and women deprived from their *hijab* and paraded in the streets of Kufa and Shaam, which symbolized the greatest form of humiliation, as they were direct relatives and descendants of Prophet Muhammad. Despite the warning that Hussain grave during the battle, calling out "O family of Abu Sufyan! If religion does not move you, are you not restrained by your sense of shame that you molest my women?" [54], the army insisted on dishonoring the women by forcefully entering and pillaging their tents. After Karbala, Hussain's message of truth and social justice was defended by his sister Zainab bint Ali and his son Ali ibn Hussain, who did not participate in the battle due to the fact that he was ill with dysentery. Fearing outrage from the Muslim community, Yazid decided not to kill the remaining members of Hussain's family but rather, send them back to Madina.

The Sunni perspective on the story is difficult to examine, due to the fact that the Battle of Karbala does not occupy a central event in Sunni thought and is not given religious affiliation or importance. In general terms, Sunnis acknowledge that the massacre took place, but also point to the fact that the evidence on what truly happened and who bears responsibility is quite inconclusive, and cannot be concretely analyzed. While they agree that Yazid was not a righteous caliph, the majority of Sunnis have varied opinions regarding the nature of Hussain's movement and Yazid's culpability in Hussain's death. For instance. Dr. Yasir Qadhi, a prominent American Sunni cleric and

[53] Momen, Moojan. *Shi'i Islam.* London: Oneworld Publications, 2016.
[54] This quote is taken from a foundational hagiographic text relating the events of Karbala that Moojan Momen uses in his analysis of the battle. The excerpt, titled "The martyrdom of Imam Husayn on the Plain of Karbala", is part of Husayn Va'iz Kashifi's *Rawdat al-Shuhada (Garden of the Martyrs).*

public figure, argued in a 2013 audio speech [55] that the massacre was primarily the responsibility of the people of Kufa, and while Yazid was a tyrant, a rebellion against his government was not necessarily in the best interest of the Islamic community at the time. Other Sunni authorities have claimed that Hussain did not actively revolt against Yazid, or that Yazid should not be given responsibility for Hussain's murder, which was ordered by Obeydollah ibn Zyad For instance, Sunni theologian al-Ghazali, whose works have earned him the title "Proof of Islam", mentions in *Ihya' Ulum al-Din* that "it is certain that Yazid was a Muslim, but it is not certain that he slew Hussain or that he ordered or consented to his death, and as long as these circumstances remain uncertain, it is not allowable to believe that he acted so." [56] On the other hand, Ibn Jarir Al-Tabari, a renowned Sunni scholar whose commentary on Islamic history is unanimously recognized by Sunni historians and biographers, has based his recollection of the Karbala narrative [57] on the reports provided by Shia scholar Abu Mikhnaf, which makes the former quite similar to the Shia version. The different interpretations of history offered by scholars from both Shia and Sunni denominations have led to the emergence of competing historical narratives that give way to varied perceptions of the same event from both religious groups.

The event of Karbala is not solely remembered by the Shia community for its ferocity as a battle. While the occurrence of the event is accepted by the Sunni population and used as a tool for oppression by anti-Shia, the battle is mourned and remembered by the Shias for the countless injustices that were perpetrated against Hussain and his family,

[55] Qadhi, Yasir. "The Massacre of Karbala: A Historical Analysis." *YouTube,* published by Yasir Qadhi Understanding Islam, 2014.
[56] Al-Ghazali. *Ihya' Ulum al-Din.* Beirut: Dar al Kotob al Ilmiyah, 2008.
[57] Al-Tabari. *The History of al-Tabari: The Caliphate of Yazid b. Muawiyah.* New York: SUNY Press, 1991.

injustices that have not yet been satisfactorily recognized mainly by the Sunni majority and their authorities. In the *Zyarat Nahiyah*, it is affirmed that Hussain was martyred without justice, as the verses "peace be upon the one whose rights and dignity were violated, peace be upon the one whose blood was shed unjustly" [58] suggest. Thus, every year on the tenth of Muharram, Shia believers mourn the martyrdom of Hussain and the calamities that befell him and his relatives in different ways across cultures and traditions. From marching to Karbala by foot to visit the holy shrine of Hussain to crying for him during sermons and reading eulogies [59], the Shias live up to their historical memory and commemorate Hussain's death, recognizing the human rights violations that not only resonate with the Shia community but fall under core principles of international human rights law, which will be analyzed in the subsequent sections. From a religious ritual, the Battle of Karbala has taken a political dimension, and empowers Iraqi Shias to emulate Hussain's behavior and fight against tyranny even in contemporary times. The emulation of the actions of Hussain is an additional proof that Shia communities do not want to forget, and still bear the burdens of history.

In the face of the escalating persecution against the Shia population by the Islamic State, the symbol of Karbala has become a weapon against oppression, and the revolutionary movement of Hussain is the banner that Shia fighters and civilians hold as a tool for resistance. During this year's Ashura commemorations in Iraq, at least 41 people were killed and 33 injured in a suicide attack in a Baghdad market [60], and while the Islamic State has been targeting Shias, particularly during this important religious

[58] *Zyarat Nahiyah.* http://www.duas.org/ziaratnahiya.htm
[59] Aghaie, Kamran Scot. *The Martyrs of Karbala: Shi'i Symbols and Rituals in Modern Iran*. Seattle: U of Washington, 2004. Print.
[60] "Over 50 Killed, Dozens Wounded in 3 Separate ISIS Attacks in Iraq." *RT International*, www.rt.com/news/362871-baghdad-shiite-suicide-bombing/.

festival, the latter have not stopped marching to Karbala in order to pay their respects to Hussain, the saint who stood up for social justice. Ayatollah Sistani, the most prominent cleric and religious voice for Iraqi Shias, has urged believers to resist for the same values that Hussain held, to protect religious minorities notably those in the Nineveh province, and engage in defensive combat that would not compromise Islamic principles, and that would respect the principles of international law. Interestingly, he adamantly forbade the Shia resistance to carry out any actions similar to those of the Islamic State, which ultimately resemble those perpetrated against Hussain in Karbala and qualify as gross human rights violations.

Indeed, in an official statement released in February 2015, he advised Shia militias to refrain from condemning others to heresy and to respect the sanctity of the lives of noncombatants. He also implicitly referred to the violations carried out during the Battle of Karbala, urging the militias not to "disrespect the corpse of the dead, and if you defeat the men of your enemies, do not violate the sanctity of their women and houses (…) do not verbally abuse their women. Do not insult their honor, even if your enemies abuse your women and insult your honor. Do not deprive any people (…) of their rights (…) Do not resort to oppression." [61] While all Shia militias have not respected those conditions, the resistance movement of the Iraqi majority against the Islamic State is nevertheless anchored to the notion of a just revolution, a standard set by the Battle of Karbala.

Hussain, his companions, and his women have become a primordial part of the Shia ethos. Hussain stands as a role model and has inspired the Shia attitude of *qiyam*,

[61] "Grand Shia Cleric Sistani Issues Powerful Statement to Shia Resistance Defending Iraq - Digital Resistance." *Digital Resistance*, 17 Feb. 2015, digital-resistance.com/insight/grand-shia-cleric-sistani-issues-powerful-statement-shia-resistance-defending-iraq/.

which signifies arising to take a stand against injustice. During the Iranian Revolution of 1979 and despite the Khomeini regime's human rights violations [62], religious and political authorities used the *qiyam* of Hussain to empower ordinary Shia citizens, who eagerly prepared themselves to rise against the Shah's government. Following Hussain's footsteps and answering the call for justice that he made on the plains of Karbala 1400 years ago is a life goal that religious Shias seek to fulfill as part of their ethics. The pledge of allegiance to Hussain is given by the Shias in several religious salutations and eulogies that are recited daily for an increase in spirituality and proximity to God. In the *Zyarat Ashura,* a eulogy narrated in honor of Hussain and believed to be enshrined in the Heavens, the Shias affirm their support for their Imam and address him in terms such as, "may my father and mother be sacrificed for you (…) I am at peace with those who make peace with you and I am at war with those who make war with you until the Day of Judgment." [63] In an interview conducted by Andrew Cockburn in Karbala during the celebration for the birthday of the Twelfth Imam, his guide and influential Iraqi pharmacist Ala'a Baqir wishes to act upon the words of the *Zyarat* and affirms, "he (Hussain) is for justice, and people think we are losing that in our own time. We are ready to fight at any time for Imam Hussain." [64]

The call for justice and recognition of the human rights violations at Karbala should not be solely deduced from Shia commemorative practices or stated life goals. In fact, it is present in the traditions and daily invocations as well. An entire part of Shia belief is centered on the conviction that justice for Hussain and his family must and will

[62] "Law and Human Rights in the Islamic Republic of Iran: A Report Covering Events Within the Seven-Month Period Following the Revolution of February 1979." *Amnesty International,* February 1980.
[63] *Zyarat Ashura*. https://www.al-islam.org/torch-perpetual-guidance-expose-ziyarat-ashura-ali-asghar-azizi-tehrani/arabic-english-text-ziyarat
[64] Cockburn, Andrew. "Iraq's Oppressed Majority." *Smithsonian Magazine*. Smithsonian, Dec. 2003. The author is a journalist, writer and lecturer on defense and national affairs.

be rendered in this life and the hereafter. Many *hadiths*, or oral reports, state that when the Twelfth Imam, the Mahdi, will reappear as a messiah, one of his missions on Earth will consist of avenging the blood of Hussain and his companions, and the oppression that the women and children had to face including the violation of their dignity and honor. Sheikh Tusi narrates in his *Book of Occultation* that the Mahdi will be from the progeny of Hussain, and will come back to settle scores with the Umayyad who participated in the massacre of Karbala. He reports a *hadith* from Ali ibn Hussain, which says, "the Awaited Savior is from the progeny of Hussain ibn Ali, from the children of Hussain, and from the heirs of Hussain. Hussain is the victim, about whom Allah said: …and whoever is slain unjustly, We have indeed given to his heir (…) authority." [65] Several verses in the *Zyarat Ashura* reiterate that his sacrifice has never been avenged and that the Mahdi will seek vengeance for it. The salutation states, "Peace be upon you, Ô the one who has been killed and whose blood has not yet been avenged (…) I pray to Allah that He grant me the opportunity to seek your revenge with the victorious Imam from the family of Muhammad." [66] In the *Zyarat Nahiyah*, Imam Mahdi himself is believed to have said, "make me victorious over the transgressors" in relation to the justice that will be rendered to Hussain. The Shias fervently believe that Fatima, Hussain's mother, will be the mistress of intercessions on the Day of Judgment and will ask for redemption for all those who cried for Hussain. 'Ali ibn Abi Talib reports a *hadith* from the Prophet that describes Fatima on the Day of Judgment, as she will pass among the crowd, holding Hussain's shirt still saturated with blood. According to this tradition,

[65] Al-Tusi, Abu Jafar Muhammad ibn al-Hassan. *Sheikh Tusi's Book of Occultation.* Qum: Ansariyan Publications, 2012. Sheikh Tusi was a prominent Persian scholar of the Twelver school of Shia Islam.
[66] *Zyarat Ashura*. https://www.al-islam.org/torch-perpetual-guidance-expose-ziyarat-ashura-ali-asghar-azizi-tehrani/arabic-english-text-ziyarat

recalled by al-Qunduzi in his *hadith* book *Yanabi al-Muwadda*, she will embrace one leg of the Divine Throne and plead to God, "You are the Omnipotent and Just, pass the judgment between me and those who killed my son." [67] Thus, the importance that Karbala holds in the collective memory of the Shias and the way in which the symbol becomes part of the sect's actions prove that the conflict and the consequent call for justice that it makes need to be addressed.

When it comes to Shia prosecution in Iraq, the horrors of history are still being carried out freely. One major way of guaranteeing the non-occurrence of a situation similar to that of Karbala and to provide the recognition that the Shia community desires is to formally acknowledge its human rights violations with the tools of transitional justice, which have proven to be effective in the aftermath of violent conflicts. It should be emphasized that the value of tears shed in the remembrance of Hussain is immeasurable in the Shia tradition. The Shias will never stop crying for Hussain and commemorating his martyrdom. Indeed, several Shia *hadiths* and historical traditions report that "anyone who cries for Husayn [68] or causes someone to cry for Husayn shall go directly to paradise." [69] However, this does not mean the call of justice is not real, or that the Shias have not lived through a perceived repetition of historical oppression. If the recognition of Karbala through the means of transitional justice can become a creative, yet perhaps efficient solution to address and help put an end to the human rights violations perpetrated on a sect that has long been oppressed, it may be interesting to give this particular analysis a chance. Acknowledging the atrocities in Karbala could be a

[67] Al-Qunduzi, Suleyman. *Yanabi al-Muwadda*, pg. 104. Al-Qunduzi was a *hadith* and narration collector from Baghdad.
[68] Alternative spellings are recognized.
[69] Aghaie, Kamran Scot. *The Martyrs of Karbala: Shi'i Symbols and Rituals in Modern Iran*. Seattle: U of Washington, 2004. Print.

potential step in achieving justice and dignity for Shia Muslims, and help an entire community deal with the legacy of the past.

The Effectiveness of Transitional Justice as a Theoretical Framework: Theories, Limitations and Examples

Definition and Description of Transitional Justice

The term "transitional justice" was first coined in the 1990s, [70] when the international community was confronted with drastic political transitions and regime changes in Latin America, the implosion of multiethnic states in a wave of extreme nationalism, and the political transformations that were taking place in Central and Eastern Europe after the fall of the Berlin Wall. A new wave of democratization soon saw the need to apply the rule of law, or post-conflict justice, to violent outbreaks and difficult political transitions, which meant establishing the truth, punishing the perpetrators, and compensating the victims. The goal of transitional justice is to redress, mainly in a national context, the legacies of past human rights violations in order to address a society's demand for the recognition of the latter in the most efficient way. Its aim is not only to recognize the suffering of direct victims, who are the main protagonists, but also that of the rest of society, especially the concerned communities who still bear the burden of historical memories. It should be noted that justice in the transitional justice process is defined by the 2004 "The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies" report as "an ideal of accountability and fairness in the protection and vindication of rights and the prevention and punishment of

[70] Teitel, Ruti G. *Transitional Justice,* New York: New York University Press, 2000.

wrongs." [71] At the same time, the report mentions that justice should not only concern the victim, but the well being of society as a whole. The field of transitional justice has brought, over the past generation, a shift in the understanding of justice by focalizing on its restorative rather punitive aspect, and has worked on redressing past human rights violations, attaining acknowledgment for the crimes and the victims' suffering, compensating for past wrongs and preventing future abuses from occurring on a population that has already lived, directly or indirectly, in oppression. Transitional justice, being strongly connected to liberal values, is an important step in ensuring democracy, strengthening the rule of law, and promoting peace. One of its core principles is the guarantee of non-occurrence, which it seeks to fulfill by implementing mechanisms of truth, reconciliation and reparation. Mariam Salehi and Timothy Williams reinforce this claim by assessing the impact of transitional justice on enduring peace using qualitative analysis, and finding that while the effects are different depending on the nature of conflicts and their contexts, "restorative and retributive justice measures can have positive effects on post-conflict peace." [72]

Transitional justice can be regarded as a process of redress that can either be restorative or retributive. [73] Restorative redress refers to situations in which parties voluntarily wish to attain reconciliation through means of negotiation. [74] It includes non-judicial acts of recognition, such as official apologies by governments, financial compensations, the creation of institutions, historical commissions and memorialization

[71] Report of the UN Secretary General, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies* (2004).
[72] Salehi, Mariam and Timothy Williams. 2016. "Beyond Peace vs. Justice: Assessing Transitional Justice's Impact on Enduring Peace Using Qualitative Comparative Analysis." *Transitional Justice Review* 1(4). Salehi and Williams are researchers at Philipps-University Marburg, Germany.
[73] Barkan, Elazar. 2006. "Historical Reconciliation: Redress, Rights and Politics." *Journal of International Affairs* (60) 1: 1-15.
[74] Ibid.

through museums, monuments, or textbooks. Retributive redress, on the other hand, is punitive and judicially enforceable. Its primary methods include international and national trials, and ad hoc tribunals that are created for definite conflicts in specific times.[75] Truth commissions, which are an integral part of transitional justice, are located in between; in fact, the truth-seeking that they entail via victim testimonials is usually voluntary while its compliance practices, such as the dissemination of final reports and the recommendable creation of successor organizations that will follow up on the implementation of the recommendations, are enforceable in the sense that the mandates of truth commissions, without being legally binding, usually advise governments to consider policy recommendations seriously. As an example, the Truth and Reconciliation Commission created in South Africa after the abolition of apartheid created a witness-protection programme for vulnerable witnesses in order to protect them from the consequences that their participation in the truth-telling process might have, and offered a safe forum where people had the chance to recall their experiences in public hearings. Thornsten Bonacker and Susanne Buckley-Zistel from Phillips University in Marburg assess transitional justice with regards to its temporal focus, argue that transitional justice is simultaneously focused on the past, the present and the future, and explain that "as a past-oriented practice, transitional justice addresses wrongs committed during a conflict. As a present-oriented practice, it establishes a new ethical and institutional framework and, through this, seeks to prevent the future occurrence of gross injustices and violence."[76]

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[75] Sirleaf, Matiangai V.S. "Beyond Truth and Punishment in Transitional Justice." *Virginia Journal of International Law* (52) 2: 225-288.

[76] Bonacker, Thornsten, and Susanne Buckley-Zistel. "Introduction: Transitions from Violence – Analyzing the Effects of Transitional Justice." *International Journal of Conflict and Violence* 7.1 (2013): 4-9.

Transitional justice is a creative process, as its success is ultimately dependent on a community's cultural understanding of justice, and while the aim remains the same, each society must choose the path that addresses its call for justice in an optimal fashion through diverse mechanisms. Furthermore, the effects of transitional justice and its efficiency can be interpreted in different ways, since "justice (…) will never be a singular outcome but is an ongoing relational process involving an exchange between people's 'ideals' and structural 'realities' that limit action." [77] The ultimate goal of transitional justice is to allow a society to move forward after periods of political unrest or violent conflicts with a feeling of satisfaction after past violations have been addressed through judicial and non-judicial methods. It aims at providing a certain sense of security to a community by emphasizing accountability and recognition, and encouraging the understanding of a common historical narrative that would abate sectarian tensions and feelings of resentment while minimizing the chance of violent outbreaks.

Despite the limitations of transitional justice, which are for instance demonstrated by Friederike Mieth [78] and Eva Ottendörfer [79] in their studies of Sierra Leone and Timor Leste respectively, and the debate on the process' efficiency and the need to separate "utopian dreams and practical possibilities," [80] transitional justice has proved its relative

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[67] Dancy, Geoff. 2010. Impact Assessment, not Evaluation: Defining a Limited Role for Positivism in the Study of Transitional Justice, *International Journal of Transitional Justice* 3 (4): 355–76.
[68] Mieth, Friederike. 2013. "Bringing Justice and Enforcing Peace? An Ethnographic Perspective on the Impact of the Special Court for Sierra Leone." *International Journal of Conflict and Violence* 7 (1): 10-22.
[76] Ottendörfer, Eva. 2013. "Contesting International Norms of Transitional Justice: The Case of Timor Leste." *International Journal of Conflict and Violence* 7(1): 23-35.
[76] Hamber, Brandon, Liz Sevenko, and Ereshnee Naidu. 2010. "Utopian Dreams or Practical Possibilities? The Challenges of Evaluating the Impact of Memorialization in Societies in Transition." *International Journal of Transitional Justice* 3 (4): 397-420.

effectiveness in various cases of international human rights law that are more immediate than Karbala but still share similar grounds, especially with regards to history as an igniting factor. The Rwandan genocide of 1994 [81], which claimed more than half a million lives and destroyed about ¾ of the Tutsi population, was instigated by ethnic tensions based on colonization, historical power-sharing and racial features determined by the Belgian colonizers. After decades of animosity based on the retention of political power and the so-called superiority of the Tutsis due to their physical features, Hutu extremists, along with the *Interhamwe* militia and ordinary Hutu citizens, started hunting down and slaughtering Tutsi men, women and children in what would become one of the most efficient and terrifying ethnic cleansing events in the recent history of international law. In mid-July 1994, the Rwandan Patriotic Front, which was formed in 1987 by Tutsi refugees in Uganda and is the current ruling party in Rwanda, overthrew the Hutu-dominated government and ended the genocide. In its aftermath, Rwanda and the international community have made efforts to punish the perpetrators of the atrocities through a combination of transitional justice mechanisms, including national tribunals, a ad hoc International Criminal Tribunal for Rwanda (ICTR), regular courts, and community-based *gacaca* courts that allowed the local population to participate in the justice process. The ICTR, which had a mandate of trying only the suspects who had a leading role in the genocide, has succeeded in convicting several prominent figures, such as the Rwandan Army Chief of Staff, Augustin Bizimungu. The accountability process in Rwandan courts had its chaotic moments, as many elected judges had no prior legal experience and judgments regarding convicted criminals were solely based on the locals'

[81] "Rwanda: Justice after Genocide - 20 Years on." *Human Rights Watch,* 2014.

memory of the latters' actions during the genocide, and relied on hearsay. [82] The process was also unsurprisingly hindered by the fact that many perpetrators lied or remained silent, which did not help truth seeking and the correct establishment of facts. *Gacaca* courts, which refer to community-based assemblies during which perpetrators would be judged by well-respected persons of "integrity" and local judges in front of families and neighbors, left a mixed legacy: their positive contributions include their swift processing of almost two million cases, local involvement in the judicial process, and the opportunity for survivors to get some information about the fate of their families. At the same time, they gave victims a chance to live more peacefully alongside perpetrators after the process. [83]

Another example of transitional justice is that of Bosnia-Herzegovina, in which ethnic conflict broke out in the midst of intense political and economic crisis. The conflict in former Yugoslavia, and particularly Bosnia, from 1992 to 1995, had its roots in nationalist rhetoric that fueled divisions, fear and mistrust among the territory's three main identity groups, the Muslims, the Serbs and the Croats. More than 100,000 people were killed in the conflict and two millions people displaced. The war's most horrendous atrocities occurred in the Bosnian town of Srebrenica, where the Serbs, under the orders of commander Ratko Mladic, executed more than 8000 Bosnian Muslim men and boys in an act of genocide, and drove out the women and children, an act reminiscent of the events of Karbala. In 1993, after getting reports about massacres, rapes, torture in detention camps and other atrocities across Yugoslavia, Security Council resolution 827 established the International Criminal Tribunal for the former Yugoslavia (ICTY), which

[82] "Justice Compromised: The Legacy of Rwanda's Community-Based Gacaca Courts." *Human Rights Watch,* 2011.
[83] Kirkby, Coel. 2006. "Rwanda's Gacaca Courts: A Preliminary Critique." *Journal of African Law* 50(2): 94-117.

would prosecute persons responsible for serious violations of international humanitarian law, such as war crimes, committed in the territory of the former Yugoslavia. [84] The achievements of the court with regards to transitional justice include the indictment of heads of state, army chiefs and other leaders for their crimes, as well as justice to victims by allowing them to testify in court, get answers from perpetrators, and help write the narrative of the story through their experiences. At the international level, the ICTY represented a step in the creation of the International Criminal Court for individual prosecutions, and has contributed precedent to the application of the law of genocide by being the first international criminal tribunal with a mandate to prosecute the crime. [85] In 2000, the Office of the High Representative (OHR), which is the international organ overseeing the administration of Bosnia-Herzegovina, advocated the creation of a memorial in Srebrenica dedicated to the victims of the July 1995 massacre. While Bosnian Serbs, who showed their belief in a competing narrative of the conflict by asserting that they had acted in self-defense, resisted the creation of a monument that recognized Muslim victimhood and Serbian criminality [86], the OHR nevertheless made a decision to create a national memorial cemetery in Srebrenica to provide a burial place for those whose bodies had been recovered, and a memory site for the victimized community.

Controversies and Limitations of Transitional Justice

While the impact and importance of transitional justice is not to be neglected, the controversies and limitations of the process should equally be addressed. First of all, a

[84] Security Council Resolution 827, 25 May 1993.
[85] Giberovitch, Myra. *Recovering from Genocidal Trauma: An Information and Practice Guide for Working with Holocaust Survivors.* Toronto: University of Toronto Press, 2014.
[86] Jacobs, Janet. 2016. "The Memorial at Srebrenica: Gender and the Social Meanings of Collective Memory in Bosnia-Herzegovina." *Memory Studies:* 1-17.

process of transitional justice is usually initiated by national government legislation, carried out by formal institutions, and sponsored by international organizations such as the International Center for Transitional Justice, which is dedicated to pursuing accountability for victims of human rights abuse though the means of transitional justice. In addition the difficulties of obtaining a formal agreement to carry out a process of transitional justice and deciding on the specific mechanisms that would be used most efficiently, the cost of such proceedings often proves to be a deterrent, especially during the process, which puts irreconcilable constraints on the agents and stops transitional justice mechanisms from achieving their full potential of success. It should be noted as well that while widespread support for transitional justice and the facilitation of its mechanisms is usually seen in the aftermath of political transitions, it is less present in post-conflict situations, as the regional truth commission in the former Yugoslavia, which was never concretized from any side of the conflict due to the dissolution of the mandating presidential office, showed.

States might also prove to be reticent vis à vis transitional justice for two main reasons: official apologies that are usually helpful to the process, and financial compensations that, while not being necessary, are often used as effective mechanisms. An official apology equals formal recognition of wrongdoings by state governments, which most of them choose to avoid and deny in embarrassment if the regimes are still made up of the perpetrator's side. For instance, it is only in 1988 after strong campaigning by Japanese-American activists such as Yuri Kochiyama that Ronald Reagan signed the Civil Liberties Act, which offered each Japanese-American a formal apology and $20,000 dollars in compensation for the internment that they were subject to

after the bombing of Pearl Harbor during World War II. Prime Minister Paavo Lipponen of Finland apologized to the Jewish community for the extradition of eight Jews to Germany in 1942 on November 7, 2000, or 58 years after the event took place. West German Chancellor Willy Brandt's gesture [87] at the site of the Warsaw ghetto in 1970, when he fell on his knees to express guilt and responsibility on behalf Germany for the Holocaust, was not well received by the German population, which refused to face the embarrassment that accompanied the public acknowledgment of the state's wrongdoings. The idea of financial reparations to victims during transitional justice also makes states uncomfortable, as victims can be granted monetary compensation for past suffering as part of restorative justice mechanisms even years after the occurrence of the conflict. For instance, Czech Financial Assistance Fund made a payment of $55 million in total to Nazi victims in 1994, and the negotiated Germany-Israel Reparations Agreement still enables Jewish Holocaust survivors living in Israel to receive a monthly pension of approximately $250 to $1395. While it is rarely used, monetary compensation can be seen as the most direct way of alleviating victims' suffering, and is a component of transitional justice that asks for a considerable financial contribution from states.

Secondly, transitional justice gives high importance to accountability and punishment of perpetrators. Therefore, its limitation resides in the fact that it focuses first and foremost on recent conflicts, especially those in which the aggressors are still alive and can be brought to justice. Rather than being concerned with historical issues that go back a long time, the process is usually used for dealing with the immediate past when it comes to rendering justice. Barkan, for instance, writes about truth commission mechanisms that "there are no good examples of truth commissions that addressed

[87] Gibney, Mark and Erik Roxstrom. 2001. "The Status of State Apologies." *Human Rights Quarterly* 23(4): 911-939.

historical issues going further back in time than the immediately preceding violent period." [88] For instance, the Guatemala Commission for Historical Clarification, which was created to clarify the human rights violations that were perpetrated against the Guatemalans in an internal conflict that lasted 1960 to 1996, was also asked to work for the preservation of the victims' memories, and tried to include several reports by historians on patterns of historical violence. These individual contributions, however, were not included in the analysis or the writing of the final report. The Truth, Justice, and Reconciliation commission in Kenya, which had the responsibility of collecting evidence of human rights abuses during post-election violence in Kenya from 1963 to 2008, was not given the means or methodology to investigate the history of decades of violence. In contrast to truth commissions, which do not always give primacy to historical analysis, historical commissions have the role of retelling a historical narrative in an objective manner and with the agreement of all commission members who represent each side of the conflict. Eva-Clarita Pettai concisely defines a historical truth commission as "an ad hoc academically grounded body of inquiry set up by state institutions to revisit historical records and facts about wrongs committed many decades earlier; to engage in research and interpretive negotiations in a rather closed environment and to produce a joint report that offers a more diversified and critical narrative of past events." [89] Thus, despite the limitations of transitional justice in addressing older historical conflicts, its mechanisms can be adapted and used to analyze historical instances of human rights abuses such as Karbala.

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[88] Barkan, Elazar. "Historical Dialogue and the Prevention of Atrocity Crimes." *Reconstructing Atrocity Prevention*. Cambridge University Press, 2015.

[89] Pettai, Eva-Clarita. "Interactions Between History and Memory: Historical Truth Commissions and Reconciliation" in Siobhan Kattago's *The Ashgate Research Companion to Memory Studies*. Farnham: Ashgate, 2015. Pettai is a Senior Researcher at the Institute of Government and Politics of the University of Tartu.

A third limitation of transitional justice with regards to historical crimes is that it is often unable to make the distinction between crimes perpetrated under an authoritarian regime, and crimes carried out solely during the time of a certain conflict. Barkan writes that no methodology is employed to deal with those distinct types of violence, which can be dangerous especially if the conflict is between identity groups. [90] In these cases, when the conflict is over but groups have not gone through a reconciliation process or the understanding of a shared narrative, the memory of violence and sectarian identity remains, which makes the groups prone to renewed hostilities in the future, based on lingering feelings of animosity. This claim has been demonstrated by the memory of Karbala that is present in both Shia and anti-Shia consciences, given the fact that a shared understanding of history has never been encouraged. The Balkan Wars of the 1990s offer another example of the exploitation of past memories of sectarian violence, as they were instigated by memories of World War II and Kosovo in times of tension. [91]

Finally, normative mechanisms of transitional justice have limits when it comes to truth seeking in historical cases that are not immediate, and the construction of a shared historical narrative. Trials have a focus on judicial truth, or a truth that is homogeneous, authoritative, and can be proven in a court beyond a reasonable doubt. While the field has put great significance on the victims' dignity and the recognition of their version of the story, the fact that a certain truth cannot always be addressed by a court due to certain parameters, such as the absence of criminals, sets ground for impunity and does not help ensure the non-occurrence of wrongdoings in the future. Furthermore, transitional justice aims at reaching a homogeneous version of the truth than can be recalled in the same way

[90] Barkan, Elazar. "Historical Dialogue and the Prevention of Atrocity Crimes." *Reconstructing Atrocity Prevention*. Cambridge University Press, 2015.
[91] Ibid.

in different arenas such as the judicial one, the social sphere and the academic realm. In cases such as Karbala, which concerns two main religious groups that do not view the story or the idea of victimhood in the same fashion, the effort of reaching a consensus on one version of the story can be problematic and make the process of reconciliation much more difficult. Barkan cites the example of Northern Ireland, which is similar to the Karbala situation, where it is clear that each side of the conflict has its own version of the truth. Reaching a single understanding of history is not being attempted, and "although there is intensive work of reconciliation, conflict resolution, and judicial inquiries, these efforts do not extend to bridging the historical narrative, but continue to allow sectarian perspectives to dominate the public sphere." [92]

Historical Cases and Transitional Justice

While it should be kept in mind that "transitional justice's focus on accountability means that it privileges addressing recent violence, primarily those violations in which the responsible perpetrators are still alive and can be brought to justice" [93], it does not mean that the mechanisms of the field cannot be adapted and used to address older, impactful, historical conflicts such as the Battle of Karbala. Elazar Barkan's work has primarily focused on historical cases and transitional justice, and how they should be approached given the limitations of mechanisms like truth-commissions and tribunals. In certain instances, such as Karbala, the main issue lies in the fact that using normative transitional mechanisms is not necessarily effective. Courts and international tribunals, for example, cannot be summoned given the fact that all perpetrators are dead. Truth

[92] Ibid.
[93] Rosenberg, Sheri P. et al. *Reconstructing Atrocity Prevention*. Cambridge University Press, 2015.

commissions by definition may not be the more efficient mechanism either, since direct victims, whose testimonies and oral reports matter most, are no longer alive.

In these situations, it is possible to fill the gaps of transitional justice mechanisms and fulfill the goals of the process through an altered approach, including mainly the formation of historical truth commissions that then lead to public policy recommendations for reparative and recognition processes. Mô Bleeker introduces historical commissions as mechanisms similar to truth commissions that emphasize joint dialogue by all parties, and that are designed to meet several imperatives, such as "fact-finding and explicit recognition of facts by perpetrators and society in general, providing satisfaction for the victims, (…) and provid(ing) the opportunity to pass on this 'jointly accepted or acknowledged historical truth' to future generations, and to identity and protect archives concerning respective events." [94] Historical commissions are temporary bodies set up through a government mandate that are a true test for democracy as their creation requires political maturity and the willingness to accept an independent investigative process and its consequences. The commissions are responsible for the analysis and scope of human rights violations perpetrated in a given period of time on a certain population. They have the responsibility to identify the facts and consequences, analyze the contexts in which these events took place, listen to witnesses and survivors if they are present, and protect archives and historical documents that will be useful in helping to create a common historical narrative. These commissions are not created to be punitive or establish the proof of culpability, which is the duty of courts and tribunals. Rather, they are an instrument of transition and recognition and are responsible for

[94] Bleeker, Mô. 2014. "The Contribution of Historical Commissions to Democracy and Diversity." *Turkish Policy Quarterly* 13 (1): 53-64. Bleeker is the Special Envoy of the Swiss Government for Dealing with the Past and the Prevention of Atrocities.

facilitating the role of hard justice by establishing the facts of the case in a rigorous manner, rendering homage to the victims' memories, and elaborating public policy recommendations that are useful for reparations to victims and conflict prevention. Louis Joinet establishes the function of historical commissions in the following terms:

> "As their name indicates, these commissions are not so much intended to deliver justice as to establish truth by decoding "why" and "how" such things could have happened. Their goal, as I see it, is first of all to make a people aware of what was all too often a hidden reality they did not want to see (...). These commissions can facilitate the work of justice, but this is not their principal goal. The reports they produce are more for the sake of memory than of justice, in the sense of providing the principle according to which a people's knowledge of the history of its oppression belongs to its heritage and as such must be preserved by appropriate measures in the name of the duty to remember, which is incumbent on the state. The aim of these measures is to preserve the collective memory, and in particular to guard against the development of revisionist and negationist theories." [95]

Public policy recommendations, which may combine retributive and restorative elements, are a primordial result of historical commissions as they allow for the strengthening of the recognition process for the suffering of the victims and stand as a powerful statement that such violence will not occur again. They generally combine a series of restorative elements such as public apologies, institutional reforms, and education and memorialization practices. The latter include the creation of museums,

[95] Joinet, Louis. 2001. "Lutte Contre l'Impunité: Le Temps des Questions." *Droits Fondamentaux* (1). Joinet is a French jurist and former UN Special Rapporteur for Haiti.

memorials, ceremonies of remembrance, the erection of monuments in memory of the conflict, and the creation of new history books that tell history from a combined perspective. Public policy recommendations are referred to as the preventive aspect of the process. Indeed, the implementation of reparative elements serves to prevent reoccurrences of the conflict, and shows that the memories of the victims are legitimate. The fact that they are carried out publically and officially makes a strong statement that crimes with impunity can no longer be part of a true democratic society, and that memorialization is the work of both the victims and the perpetrators.

Historical commissions are not as visible as truth and reconciliation commissions, which take place in the aftermath of conflicts that are quite immediate and recent. Historical commissions have mainly been used with regards to the events of World War II, or to investigate the history of colonialism in cases such as Japan and China. One example is Switzerland's Bergier Commission, which was established in 1996 with the mandate to "investigate the volume and fate of assets moved to Switzerland before, during and immediately after Second World War from a historical a legal point of view." [96] The assets included gold, foreign currency regulated by the Swiss National Bank, as well as cultural assets of both victims of the Nazi regime, and the perpetrators. Along with the examination of the relations between Swiss industrial companies and National-Socialist ones with regards to their participation in forced labor practices, the Commission took into account Switzerland's refugee policy in parallel to its economic agreements with the Axis Power and the Allies. Consequently, the final report adopted a firmer stance on victims' rights and centered its issues on the legal ownership of victims and their right to get their assets restituted to them. The report showed that through the

[96] Independent Commission of Experts Switzerland - Second World War (ICE). https://www.uek.ch/en/

workings of the historical commission, the victims not only got compensation but the analysis of Switzerland's historical narrative opened up new debates regarding its neutrality in conflicts and relationship with other states. The Bergier Commission importantly contributed to the shaping of modern democracy in Switzerland by opening up debates regarding the relationship between Swiss economy and foreign policy, and contributing to contemporary discussions on national ethos. Another example is the Estonian Presidential Commission of 1991, which was mandated to reconstruct the narrative of Nazi crimes in Estonia during the occupation. While it was praised for the thorough work that it accomplished, it has also been criticized for failing to raise public awareness among Estonians who did not have memories of Jewish extermination due to the small population of pre-war Estonian-Jews, create joint conclusions and open up honest dialogue about accountability.[97] The Lithuanian Presidential Commission was also lauded for its effort toward academic exchange, but was unable to produce a report even after ten years of activity, due to the lack of political and social support, which was the main reason for its failure. [98]

Historical commissions have often been successful in bringing a feeling of justice to the victims of past atrocities. It is safe to assume that for justice to be done, the establishment of facts and truth are primordial. In historical cases especially, justice means more than punitive measures and the punishment of perpetrators in court. Importantly, historical commissions contribute not only to the creation of a convincing narrative, but also to the understanding of the reasons behind a perpetrators' motives,

[97] Weiss-Wendt, Anton. 2008. "Why the Holocaust Does not Matter in Estonia." *Journal of Baltic Studies,* 39 (4): 475-498.
[98] Budryte, Dovile. "International Commission for the Evaluation of Crimes of the Nazi and Soviet Occupation Regimes in Lithuania" in Stan, Lavinia and Nadya Nedelsky's *Encyclopedia of Transitional Justice Vol. 3.* Cambridge: Cambridge University Press. 2013.

which enables victims to add a layer to their identities, that of "identities that can live with what happened and will no more by defined only by what happened." [99] The impetus for the creation of historical commissions by governments and their efforts in putting into effect public policy recommendations to alleviate the burdens of history have a tremendously positive effect on citizens, society, democracy and diversity. [100] Parties that have an interest in denying or maintaining their versions of the truth without accommodation will not have the same influence, a newfound freedom in dialogue will diminish the power of dichotomies such as "us and them", and allow for competing narratives to emerge and give way for individual responsibility rather than collective and stereotypical blaming. One example of the positive reception of new historical facts that led to a reexamination of a people's identity and responsibility is that of the Jedwabne case, which was analyzed by Alexander Karn [101]. In the aftermath of the 1941 Nazi occupation of Eastern Poland, the Polish population started targeting Jews and carrying out systematic acts of violence against them. In the small town of Jedwabne, the local population killed and burned hundreds of their Jewish neighbors. The narrative disappeared from Polish collective memory and people did not remember their responsibility in the event, until Jan Gross [102] brought it back to the attention of the Poles and the international community in 2000, after the Polish Institute of National Remembrance was entrusted with an investigation into the atrocity by the Polish

[99] This quote is taken from an interview by Mô Bleeker with a victim after she received a commission report related to her case.
[100] Bleeker, Mô. 2014. "The Contribution of Historical Commissions to Democracy and Diversity." *Turkish Policy Quarterly* 13 (1): 53-64.
[101] Karn, Alexander M. "Depolarizing the Past: The Role of Historical Commissions in Conflict Mediation and Reconciliation." *Journal of International Affairs,* 60 (1): 31-50. Karn is an Assistant Professor of History at Colgate University.
[102] Jan Gross is a Professor of History at Princeton University. In 2000, he wrote a book titled *Neighbors: The Destruction of the Jewish Community in Jedwabne, Poland*, which analyzed the killing of Polish Jews in the town of Jedwabne during Nazi occupation.

Parliament. In light of this recognition, Poles reexamined their identities and attitudes to their own history. Extensive discussion, apologies, commissions, and investigations about anti-Semitism in Poland took place. The local population was ready to assume its historical responsibilities, which ameliorated their relationship with the Jews, who had initially viewed them as antagonists during World War II. The creation of the Jedwabne Jewish Memorial in 2001, as part of the memorialization process, could be seen as an essential element of reconciliation between Jews and Poles, and a reminder of history for future generations. The emergence of this piece of narrative and its acknowledgment by the Polish government enabled the inscription of the event in Polish national memory, which helped "set the standard for truthfulness, acceptance of responsibility, and teaching history." [103] As Bleeker sums up, a major positive result of historical commissions is "the emergence of a space for foundational and fertile dialogue between different narratives and the 'truth,' the emergence of a whole range of new vocabulary and attitudes relating responsibility to individuals rather than engaging in collective blaming, dialogue rather than accusations, and diversity rather than the monopoly of a singular, homogenous identity." [104]

Truth Seeking, Historical Dialogue and Shared Narratives

In most cases of transitional justice, memory work and the construction of history is carried out through mechanisms such as truth-commissions, and represents a fundamental step in achieving consent about perpetrated human rights abuses, establishing the facts of the case, and bringing direct solace to the victims by recognizing

[103] Barkan, Elazar and Alexander Karn. *Taking Wrongs Seriously: Apologies and Reconciliation.* Stanford: Stanford University Press, 2006.
[104] Bleeker, Mô. 2014. "The Contribution of Historical Commissions to Democracy and Diversity." *Turkish Policy Quarterly* 13 (1): 53-64.

their suffering and paying homage to their experiences. Furthermore, according to Ariel Dulitzky, memory work is an important aspect of peace-building, as "the memory of how human rights were violated in the past allows us to identify current problems…conceived as such, memory initiatives are an integral part of any strategies to promote and guarantee human rights and further democracy." [105] The oral testimonies of victims, along with supporting research from criminal cases, are at the heart of truth-commissions since the victims' dignity is the major focus of the field's advocates. Chrisje Brants and Katrien Klep discuss the effects of truth commissions on "the construction of collective memories about past human rights abuses," [106] and find that while those mechanisms are useful in uncovering facts and punishing perpetrators, they also have an effect on the way the past is narrated. According to the authors, truth commissions tend to create a homogeneous version of the story out of many competing truths, and produce a version of the past that becomes an authoritative claim of truth in their verdicts and issued reports. [107] The role of victim-witnesses in the participation of truth and reconciliation processes is crucial as it is their recollections that create history and shape the identity and collective memory of an entire community. Victims, being the central figures in transitional justice, have the power to shape narratives that help collect and analyze instances of human rights abuses. The drawback, however, is that victims, being survivors, often speak with their pain in mind, which may lead to a distortion of factual truth. While this problem can be found in tribunals as well, the difference is that a court's verdict is definite and uncontested. The truth achieved in a commission, while being authoritative in its own way, still leaves

[105] Dulitzky, Ariel. "Memory, an Essential Element of Transitional Justice." *Peace in Progress* 20 (2014). Dulitzky is a member of the UN Working Group on Enforced and Involuntary Disappearances.
[106] Brants, Chrisje, and Katrien Klep. 2013. "Transitional Justice: History-Telling, Collective Memory and the Victim Witness." *International Journal of Conflict and Violence* 7(1): 36-49. Brants and Klep are professors at Northumbria and Leiden Universities respectively.
[107] Ibid.

room for contestation in other areas of a post-violence society, if not in the course of the commission's work.

More pertinent to the Karbala case, however, is truth seeking through historical commissions and dialogue, which could be seen as an adaptation of transitional justice mechanisms for older conflicts as argued by scholars like Brian Grodsky [108], Mark Freeman [109] and Lavinia Stan [110].The recollection of historical memories that the commission allows for helps construct collective identity, along with a shared narrative. Barkan argues that historical commissions, as opposed to truth and reconciliation ones, allow for the minimization of a one-sided narrative, and the creation of a shared historical one in which the input of the perpetrator, or the other side's version, is central. These mechanisms are particularly important in cases of historical conflicts, in which memories have primacy over contemporary politics. Historical truth, which is based on inanimate and textual evidence rather than oral testimonies, and is more useful for older cases such as Karbala, cannot be imposed like judicial truth. It is provisional and can be recreated by future historians as new archival evidence is uncovered. Also, it must be persuasive enough to be politically accepted, and contribute to conflict resolution and prevention. The fact that historians cannot base themselves on experience-based personal memories does not mean that the latter are not available to historians or that they are not used in truth seeking. On the contrary, social memory scholars such as Aleida Assmaan [111] write

[108] Grodsky, B. 2009. "Beyond Lustration. Truth Seeking Efforts in the Post-Communist Space." *Taiwan Journal of Democracy,* 5 (2): 21-43.
[109] Freeman, Mark. *Truth Commission and Procedural Fairness*. Cambridge: Cambridge University Press, 2006.
[110] Stan, Lavinia. "Truth Commissions in Post-Communism: The Overlooked Solution?" *The Open Political Science Journal* 2: 1-13.
[111] Assmaan, Aleida. "Four Formats of Memory: From Individual to Collective Constructions of the Past" in Emden and Midgley's *Cultural Memory and Historical Consciousness in the German-Speaking World since 1500.* Oxford: Peter Lang. 2004, 19-36.

that past wrongs, which are communicated within families and through social interaction, like the story of Karbala, remain powerful by generating identification in society.

Historical dialogue, which leads to historical truth, takes place when two sides engage in joint writing of history through mechanisms such as bilateral commissions, or when historians and other creators of historical knowledge analyze their own accounts of history and contribute to the understanding and reexamination of group identities and beliefs. In cases of histories of atrocities, such as Karbala, a reevaluation of history from both sides can lead to open dialogue that allows both parties to move forward. Historical dialogue is not about covering up revulsive facts in order to avoid backlash, but rather, to understand a past event from multiple perspectives and get a clearer perception of the violence and its causes. Barkan states that "the interaction between perpetrator and victim is a new form of political negotiation that enables the rewriting of memory and historical identity in ways that can be shared by both." [112] The common understanding of a specific historical event, which historical commissions seek to bring about, will ideally lead to a consensus, but if not, will at least help diminish sentiments of denial and negation of the suffering of the victims. It will also bring the victims to acknowledge their own responsibility in the conflict, if any, and provide them with an incentive to move forward.

Historical dialogue can also contribute to "prevention by engendering better relations between groups and demythologizing old hatred," [113] a claim that would be supported by historians like E.H. Carr and Eric Hobsbawm who have worked on the role of historians in changing historical narratives, and with them, political realities. Historical dialogue should be seen as an empathic, constant effort of revealing the truth through

[112] Barkan, Elazar. "Historical Dialogue and the Prevention of Atrocity Crimes." *Reconstructing Atrocity Prevention*. Cambridge University Press, 2015.

education and culture, and one that can actually be efficient in burying old myths and feelings of animosity that can lead to the repetition of historical violence. Indeed, one of the most crucial advantages of historical dialogue does not lie in the fact that it enables scholars to shed light on new narrative complexities or discover more effective methods of methodology but rather, in showing empathy and open-mindedness to the other side by seriously considering its version of the story and avoiding the generalization of "the other" as the enemy through a thorough fact-finding process. Mô Bleeker argues that such behavior contributes to a positive change in democracy and diversity, as it lays down a new foundation for coexistence and opens up a path for new societal relationships. [114]

In order to guarantee the resolution of conflicts, shared historical narratives, which are based on the outcome of historical dialogues, must be written by all sides of the conflict by academicians who are committed to using their knowledge to counter misconceptions and myths regarding an event of the past. Several textbook commissions involving Germany and its neighboring territories, such as the Franco-German Textbook Commission on Controversial Issues in European History and the Israeli-Palestinian Textbook project, have been created by the Georg Eckert Institute for International Textbook Research and are committed to working towards the inclusion of a shared history for purposes of conflict prevention through education. Israeli and Palestinian scholars have made small efforts to organize informal gatherings for joint historical writing, and while these steps are praiseworthy, they have had little political impact. [115]

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[114] Bleeker, Mô. 2014. "The Contribution of Historical Commissions to Democracy and Diversity." *Turkish Policy Quarterly* 13 (1): 53-64.

[115] Rohde, Achim. "Learning Each Other's Historical Narrative- a Road Map to Peace in Israel/Palestine," in Karina V. Korostelina and Simone Lässig's *History Education and Post-Conflict Reconciliation: Reconsidering Joint Textbook Projects*. Routeledge, 2013. 177-190.

The Workshop of Armenian/Turkish Studies, sponsored by several universities such as the University of Michigan and the University of Geneva, organized international meetings including in Austria in 2004, and saw the contribution of Turkish and Armenian scholars to create a shared discourse regarding the atrocities of the Armenian genocide. [116] These programs, aiming at improving history education and reducing negative stereotypes, often issued recommendations via reports on combatting prejudice and intolerance. For instance, Recommendation 15 issued by the Council of Europe was adopted by the Committee of Ministers of 2001, and stressed that the falsification and instrumentalization of history was against the principles of the Council of Europe as defined by its statute. [117] While the policy impacts of such commissions are minimal at this stage, the effort must be recognized for its contribution to prevention through history, and the building of a more peaceful relationship between identity groups.

Given the assumption that parties are ready to confront another facet of their beliefs and can be persuaded in contributing to an open dialogue, historical narratives can become political tools that governments and the public may use to investigate the root of local animosities and get a new understanding of past conflicts. The role of history in shaping conflicts is not negligible, as violent outbreaks are often alimented by misunderstandings that instigate conflict renewal, based on stereotypes and myths that have never been addressed, and might lead to reticence from foreign states regarding intervention. One striking example is that of the Bosnian intervention led by the United States, which was delayed for three years "because the United States viewed the war as

[116] Grigor Suny, Ronald, Fatma Muge Göçek, and Norman M. Naimark. *A Question of Genocide: Armenians and Turks at the End of the Ottoman Empire.* Oxford: Oxford University Press, 2011. 5-8.
[117] Korostelina, Karina V. "Peace Education and Joint History Textbook Projects" in Karina V. Korostelina and Simone Lässig's *History Education and Post-Conflict Reconciliation: Reconsidering Joint Textbook Projects*. Routeledge, 2013.

part of the Balkans' culture - a force of nature." [118] The step towards the construction of shared historical narratives, despite the reality that all communities strongly hold on to their beliefs and versions of history, must be taken to allow for a better understanding of conflicts and a difference in public discourse and perception their own history. [119] By encouraging the end of historical myths and animosities, historical commissions show a strong potential for peace building and successful reconciliation processes.

Analyzing Karbala in the Framework of Transitional Justice

"Can deep-seated antagonisms, rooted in the memories of past violence and suffering, be overcome by the means of critical historical scholarship?" [120] In order to provide a tentative answer to this question, Karbala will be analyzed as a case study in the theoretical framework of transitional justice that was described above. Of all the mechanisms that are comprised in the process of reconciliation that transitional justice aims for, historical commissions, used to deal with controversial but remote historical events, and memorialization mechanisms, textbooks and museums in particular, will be used to assess the Battle of Karbala. It must be noted, however, that the tensed geopolitical situation in Iraq and the Islamic State's presence in the country, which has been previously discussed, does not create an ideal setting for the establishment of transitional justice procedures. The following suggestions are to be considered during a post-violence climate, in which the rule of law and social institutions, such as mandated

[118] Barkan, Elazar. "Historical Dialogue and the Prevention of Atrocity Crimes." *Reconstructing Atrocity Prevention*. Cambridge University Press, 2015.
[119] Mink, Georges. "Institutions of National Memory in Post-Communist Europe: From Transitional Justice to Political Use of Biographies (1989-2010)" in Mink, George and Laure Neumayer's *History, Memory and Politics in Central and Eastern Europe: Memory Games.* New York: Palgrave Macmillan, 155-170.
[120] Pettai, Eva-Clarita. "Interactions Between History and Memory: Historical Truth Commissions and Reconciliation" in Siobhan Kattago's *The Ashgate Research Companion to Memory Studies*. Farnham: Ashgate, 2015.

commissions, scholarly workshops and academic environments, might have the potential to flourish. Most importantly, the Iraqi government, which would be the mandating party of the historical commission on Karbala, must understand the importance of conducting the process and acknowledge that the latter could shed light on the roots of recent violent outbreaks, and thus, serve national interests. As Pettai explains, "addressing disputes over a common history has thus become a vital interest for many states (…) in order to stabilize intergroup relations within society." [121] It is only through this recognition that the set up of a historical commission, which will require consistent funding, and the application of its resulting recommendations will have a chance to work concretely.

The Work of the Historical Truth Commission

Inspiring social integration and understanding is crucial in a society in which identity groups coexist after a history of violence, misunderstanding and sectarian discrimination. In order to avoid that these lines of conflicts, alimented by remaining feelings of animosity, reemerge and initiate division once again, a process of truth seeking and reconciliation should be put in place in Iraq. For an event that goes back a long time, such as Karbala, historical commissions are a fist step in encouraging truth-seeking, fact-finding and dialogue between different parties, understanding the point of view of each side, reaching a relatively agreed-upon historical narrative, and creating public policy recommendations that will bring satisfaction to the victims through the official recognition of the human rights perpetrated against them. As previously discussed, the memory of Karbala is used by both sides of the conflict in different ways: while the Shias commemorate the tragedy and use it as a tool of empowerment against

[121] Pettai, Eva-Clarita. 2015. "Negotiating History for Reconciliation: A Comparative Evaluation of the Baltic Presidential Commission," for *Europe-Asia Studies,* 1-23.

the violence that they still face in Iraq today, Sunnis and extreme anti-Shia groups either dismiss the event as unimportant or manipulate it to threaten Shias and encourage sectarian tensions. Dealing with Karbala through legal and formal procedures might be an efficient way to stimulate a viable peace-building process and improve relations between religious sects.

When setting up a historical commission, the Iraqi government might have to respect several principles that seem vital to the credibility of the former. First of all, the commission must be independent and autonomous, and should not be influenced by Shia or Sunni pressure groups that wish to secure their respective interests. Secondly, the commission will be able to perform its task better if it is composed of recognized experts and scholars who work professionally, and have a high sense of integrity that forces them to stay neutral. The government should make the mandate concise and achievable within a reasonable time, and give the commission the ability to make policy recommendations that the authorities should consider binding in order to uphold the efficiency of the process. In order to facilitate the work of the commission, the government must give it access to archives and information that are necessary for experts to analyze acts of wrongdoings and recreate an objective narrative, as they cannot turn to direct perpetrators, victims or witnesses who are long dead or incapable of providing testimony. The commission, with guaranteed physical protection for its members, must also be able to meet any person or visit any place it deems necessary to help with the truth-seeking and reconciliation process. The expert historians of Sunni and Shia Islamic history who would make up the body of the committee will thus endorse a political role in trying to resolve a conflict between two narratives, which will have positively intended

consequences on political phenomena in Iraq, as it will provide clarification regarding the sources of sectarian violence that the country regularly faces. [122] In fact, the interaction between historical scholarship and politics that will take place within the historical commission can possibly result in a "truly reconciliatory historical narrative able to indeed impact the political conflict at hand (…) and offer a new reading of the historical past that is compelling yet open enough to encourage critical revision of longstanding myths and further dialogue." [123] While the other outcome of this interaction is the emergence of a biased or inconclusive narrative, either because the fact-finding process might not be fruitful or the constructed narrative is simplistic and discredits alternative views or identity-making memories, historical commissions remain one of the most efficient "sub-mechanisms" of transitional justice for remote cases that has been created so far.

In order to recreate a complete narrative of the facts and atrocities perpetrated at Karbala, historians will need to assess and consult both Shia and Sunni versions. The cultural memory of Karbala being most important in Shia tradition, it is not surprising to find that the event is very frequently, if not always, told from a Shia perspective and not a Sunni one. Archive work and collaboration with Sunni religious figures might help bridge the gap and enable a dialogue between the versions, and an understanding of each side's view regarding the conflict. Applying modern human rights principles to an ancient conflict might be a way to add perspective to the event of Karbala. It would not only be useful in order to understand the importance and emotional value it holds for the

[122] Engel, David. 2009. "On Reconciling the Stories of Two Chosen People." *American Historical Review,* 114 (4): 914-929.
[123] Pettai, Eva-Clarita. "Interactions Between History and Memory: Historical Truth Commissions and Reconciliation" in Siobhan Kattago's *The Ashgate Research Companion to Memory Studies*. Farnham: Ashgate, 2015.

Shias until today, but also allow for possible agreements on human rights violations by both Shia and Sunni sides with regards to commonly believed facts about the battle. Jeffrey K. Olick and Brenda Coughlin favorably argue that the universality of human rights has two meanings. First, that human rights principles can be applied to all communities, and second, that they are valid principles that can be used to analyze historical conflicts and past societies as well. [124] It can be deduced from Shia recollections, which are readily available, that the human rights violations perpetrated against Hussain and his family violate fundamental principles of international human rights law, as well as principles of the Geneva Conventions regarding the law of war and conflicts and the treatment of non-combatants. However, it must be emphasized once again that the information is based on ancient historical records that cannot be easily verified, and that will be subject to dispute, since the Sunnis have reservations regarding the history of Karbala.

In general terms, the atrocities violate Articles 1, 4 and 5 of the Universal Declaration of Human Rights, which respectively stipulate that all human beings are free and equal in dignity, and should not be subjected to slavery or cruel, inhuman or degrading treatment and punishment. [125] The conflict could also be analyzed through the Geneva Conventions, which refer to a body of treaties enunciating the laws regarding the treatment of civilians, prisoners of wars and soldiers during times of conflict. Common Article 3 [126], which covers internal armed conflicts, requires that all persons in enemy hands should be given humane treatment, and specifically prohibits murder, mutilation,

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[124] Jeffrey, Olick K., and Coughlin, Brenda. "The Politics of Regret." *Politics and the Past: On Repairing Historical Injustices*. Lanham, MD: Rowman & Littlefield, 2003.
[125] *Universal Declaration of Human Rights.* http://www.un.org/en/universal-declaration-human-rights/
[126] *Convention (IV) relative to the protection of civilian persons in time of war.* https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/1595a804df7efd6bc125641400640d89/6756482d86146898c125641e004aa3c5?OpenDocument

torture, cruel, humiliating and degrading treatment, and the taking of hostages. The fact that the bodies of Hussain and his men were decapitated and mutilated, and their heads mounted on lances in the aftermath of the war clearly violates those provisions. Atrocities perpetrated on Hussain's women and children should be considered under the fourth Geneva Convention, which guarantees the protection of civilians, or persons taking no active part in the hostilities. Again, Article 3 warns against violence to life and persons, and prohibits torture and inhumane treatment. Women and children in Karbala were deprived of water, looted, made captives, stripped of their hijabs and humiliated in the streets of Kufa and Damascus, which falls under and violates Common Article 3(d) regarding outrages upon personal dignity, including humiliating treatment. These actions also violate Article 33 prohibiting pillage, and Article 27 of the Convention, which stipulates that protected persons "are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity." [127] Women, especially, must be protected against any form of attack on their honor and any form of indecent assault, which the Umayyad army did not respect at all.

The recognition of these atrocities through the lenses of memory and international law, along with a recollection of the facts from a Sunni perspective especially regarding main diverging points such as Yazid's involvement in the conflict or the establishment of an actual rebellion from Hussain, will enable the truth commission to create a shared narrative that could potentially initiate common understanding, a reevaluation of

[127] Ibid.

collective memory, and encourage more peaceful relations between Shias and Sunnis in Iraq. This process, of course, is difficult to achieve. In this particular case, the main difficulty resides in the fact that each side is firmly convinced of its own version, and has lived according to it for centuries. Given this fact, the acceptance of newfound responsibility of either side in the conflict might be disputed, especially by the population at large. For instance, if further evidence from the Sunni perspective demonstrates that Yazid did in fact order the slaughter of Hussein, there might be a risk of contestation by Sunni religious leaders who have power over the masses and can influence the latter's belief in the historical commission. However, the possible reduction of historical animosity that the commission aims for will be an important factor in fostering reconciliation between both identity groups, if the narrative is constructed without bias and takes into account each side's position while still aiming to unveil the factual truth. The historical commission will also prepare a report in vernacular Arabic that will not only detail the facts of the case, but also show a synthesized narrative that will be more comprehensive and thus, easily understood by the public. In order to maximize the report's potential for reconciliation, the commission should consider including a history of the Shia commemoration of Karbala and an explanation of the meaning behind the sect's sorrow and mourning practices. By adding this part to the report, the commission will ensure that Sunnis get a more truthful understanding of Shias beliefs and ethos, since the misunderstanding about Shias practices encourages Sunnis to view them as heretics, and makes sectarian rhetoric by the Islamic State more believable. The government, in a mature effort to make the work of the truth commission worthwhile, must make the report easily available to both Shias and Sunnis, and encourage its dissemination in

independent newspapers such as Al-Mada, or on radio stations like AFN Iraq and Karbala FM, which broadcast news within Baghdad and Karbala respectively. Also, the government should encourage debates around the findings of the report through the medium of citizen journalism, which includes blogging, in order to get a sense of the opinions and reception of Iraqis citizens, and the youth in particular, as they will be the actors of tomorrow's society. Of course, there is no certain way of ensuring that the report will be well received by all. However, the notion of unity in the Islamic nation (*Ummah)* is central in both Shia and Sunni belief, and is inscribed in the Qur'an. [128] If Shia and Sunni prominent moderate religious leaders succeed in sensitizing their audiences about the report through sermons or speeches during Friday prayers, and reminding them of the importance of brotherhood and Islamic unity that the religion preaches, there is a better chance that the constructed narrative will be accepted, or at least, considered in a more tolerant manner by both sides. This realization, along with the work of the historical commission, might then lead to the creation of public policy recommendations considered binding on the government that will help alleviate the trauma of the victimized population, and bring closure and reconciliation for the case through formally recognized memorialization practices.

Public Policy Recommendations for Recognition

Compensating victims of past wrongs is a core component of transitional justice. Financial reparations are the most direct form of compensation but the latter may not be very efficient for remote historical cases in which victims are long dead, and their lineage may not be easily determined. In those situations, memorialization initiatives should be

[128] In the Qur'anic chapter *Al-Anbiyâ',* verse 92: "This Ummah of yours is a single Ummah, and I am your Lord, so worship Me."

taken in order to ensure official acknowledgment of the direct victims' suffering and lasting remembrance in both the victims' and the perpetrators' minds. Julia Viebach, in her study of memorials in Rwanda, finds that memorials prevent forgetting and are therefore an example of symbolic punishment for the perpetrators, who cannot deny their wrongdoings in the face of an official site of remembrance. [129] Rwanda is governed by the Tutsis, who were the victims of the genocide, which means that building memorials in remembrance of their own victimhood was less difficult to achieve. It is not often in history that perpetrators build memorials, which remain a permanent statement of their own deeds. For instance, it is sixty years after the Holocaust that Germany, as the perpetrator state, decided to build the Holocaust Memorial in Berlin in 2005 as a commemorative gesture for the Jews who had been exterminated by the Nazi regime during World War II. The memorial, however, was subject to criticism from the Jewish community, which found that it was too concentrated on the victims but did not show anything about the perpetrators' actions. [130] The fact that the memorial was not widely accepted by the victimized community undermined its credibility. Memorialization by the perpetrators, while being quite rare due to the reticence that the latter would have about publicly acknowledging their own violations, could be extremely powerful if the memorials incorporated the complete version of the atrocities, including the presence and actions of the perpetrators.

Susanne Buckley Zistel and Stefanie Schäfer describe potential functions of memorialization as "vindicating the dignity of victims, stimulating open debates amongst

[129] Viebach, Julia. "*Alétheia* and the Making of the World: Inner and Outer Dimensions of Memorials in Rwanda," in Buckley-Zistel and Schäfer's *Memorials in Times of Transitions,* Cambridge: Intersentia, 2014. Viebach is a researcher at the University of Oxford.
[130] Cohen-Pfister, Lauren, and Dagmar Wienroeder-Skinner. *Victims and Perpetrators: 1933-1945: (Re)Presenting the Past in Post-Unification Culture*. De Gruyter, 2006: 209-210

past injustices, contributing to conflict transformation, strengthening resistance against the dominating narrative, aiding in building a new and cohesive nation on the ruins of the past, and providing a place for private reflection and mourning." [131] Memorialization can be done creatively, depending on each group's way of remembering and contributing to the effort. The new trend of memory collection in Holocaust education [132], for instance, in which student groups collect six million of a chosen object to symbolize the victims of Hitler's genocidal policies, has been criticized for trivializing the Holocaust but nevertheless show that contributions to memorization can be offered in non-conventional ways as well. The Sunnis in Iraq, given that dissemination methods and religious rhetoric would have been efficient in encouraging them to view the Karbala narrative through a lens of tolerance, could also their effort towards acceptance by adopting a similar trend or contributing to memorialization in their own way. It has been established previously that the Sunnis agree that Hussain was a righteous man, and are not particularly attached to Yazid, even though they do not necessarily believe in his involvement in the massacre, which makes the acceptance of the narrative more possible. The Sunnis could, for example, offer baskets containing water and Karbala symbols such as the Islamic flag or hand pendants that represent the martyrdom of Hussain's brother 'Abbas, to their Shia neighbors in order to show that they respect the latter's beliefs and wish to take part in the commemoration process. Association Modeste et Innocent in Rwanda, which works around the theme of forgiveness, has been able to put a similar process in place and has

[131] Buckley Zistel, Susanne and Stefanie Schäfer "Memorials in Times of Transition," in Susanne Buckley-Zistel and Stefanie Schäfer's *Memorials in Times of Transition,* Cambridge: Intersentia, 2014. Schäfer is Assistant Professor of American Studies at Friedrich-Schiller-Universitat Jena in Germany.
[132] Magilow, Daniel H. 2007. "Counting to Six Million: Collecting Projects and Holocaust Memorialization." *Jewish Social Studies,* 14 (1): 23-39.

enabled Tutsi victims to grant pardon at different degrees to Hutu perpetrators. [133]

Martha Minow argues in her study that victims of violence who are unsatisfied with a courtroom's decision demand vengeance [134], which can be a dangerous feeling as it continues to put the victims in the power of the perpetrator, and does not allow them to move forward. Forgiveness, on the other hand, allows the reconciliation process to go more smoothly and breaks the vicious cycle of revenge and animosity. Society's responses to perpetrators, which, for instance, come in the form of amnesties, are unacceptable to victims of gross human rights violations who view them as unequal and unfair in contrast to the suffering they endured at the hands of the perpetrators, and the memories that they have to live with. Sarah Jones [135] suggests that memorialization, through education and culture, could be a response that lies between both extremes. Memorialization is a satisfactory mechanism for victims given its official and public character. It does not oblige the victims to forgive but assures that nobody forgets what they have been through. In the case of Karbala, it has already been established that forgiveness will be too much to ask for, given the sacred character of Imam Hussain and people's belief in the miracles that the tragedy of Karbala can bring them in this life and the afterlife. Remembrance through memorialization mechanisms such as history textbooks and memorial museums, however, will enable them to get recognition without being forced to forgive the perpetrators. The official acknowledgment of their suffering, specifically in places of conflict like Iraq, gives the Shias a sense of security and assures them that the actions of the perpetrators are officially recognized. Memorialization can be

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[133] Dominus, Susan. "Portraits of Reconciliation." *The New York Times Magazine. https://www.nytimes.com/interactive/2014/04/06/magazine/06-pieter-hugo-rwanda-portraits.html*

[134] Minow, Martha. *Between Vengeance and Forgiveness: Facing History after Genocide and Mass Violence.* Boston: Beacon Press, 1998. Minow is the Morgan and Helen Chu Professor of Law and the Dean of Harvard Law School.

[135] Jones, Sarah. 2015. "Simply a Little Piece of GDR History? : The Role of Memorialization in Post-Socialist Transitional Justice in Germany." *History and Memory* 27(1): 154-181.

seen as a promise that the world will not permit violations to occur against the same population again.

History textbooks, according to Simone Lässig, are seen as a key source for shaping collective memories and forming social cohesion.[136] Including a complete version of the story of Karbala, one that would have been shaped by a historical truth commission, in school curriculum will educate the future generations of Iraqi Shia and Sunni about the past of their religious guides and the beliefs of their ancestors, and will allow the narrative to highlight the victims' suffering, stay engraved in the collective memory of groups and nation, and ensure that a generation that knows its history will not repeat it. Of course, conveyors of historical knowledge, such as teachers, play a primordial role in the assessment of the materials and the vision of the "other" that they convey to the classroom, which can either lead to soothing or exacerbation. History textbook projects are mature political and peace education projects that are part of reconciliation, in the sense that they are an emanation of a society's willingness to coexist in a more peaceful environment, recreate empathy among ethnic and religious groups, and move beyond the stereotypical dichotomy of victim-perpetrator that is used to describe a violent past. In the case of Iraq, this process can be successfully implemented in post-conflict academic institutions that would be safe and welcoming of students from multiethnic groups. The government should push for the inclusion of the shared narrative in the historical curriculum of all schools in the region, and put in place workshops and seminars for instructors during which the historians who participated in the commission can clarify the facts of the story, address issues and concerns, and work with teachers to

[136] Lässig, Simone. "Peace Education and Joint History Textbook Projects" in Karina V. Korostelina and Simone Lässig's *History Education and Post-Conflict Reconciliation: Reconsidering Joint Textbook Projects*. Routeledge, 2013.

find ways to answer the most probable questions that students from Shia and Sunni backgrounds might have regarding the narrative. While controversial issues remain sensitive and there is always a fear that teaching a joint history will open old wounds and bring back painful memories, history textbooks can become a medium of trust and empowerment. Learning about a history in which blame is not necessarily one-sided and one in which each party recognizes their responsibility permits a stronger bond to form between identity groups. This bond of unity encourages mutual understanding and effort to go strengthen and build peace, which is a constant effort in a society that has become fragile after a history of sectarian conflicts. The methodology and theory regarding the impact of history books on societal change is too little in scholarship at the moment, but we can deduce from previous examples of textbook commissions that these project have potential and are getting recognition. New projects aimed at teaching a history of many perspectives, such as the German-Czech project group or a discussed, yet unlikely in the current political climate, Egyptian textbook project written by leaders of different religious groups for a multireligious classroom, are hopeful examples that a joint history of Shia-Sunni relations, in which Karbala will have particular importance, could be considered when, and if, Iraq is given the opportunity to move towards a post-violence society.

Karbala and Najaf, two of the most important cities for the Shia population, are home to the shrines of Hussain, ‘Abbas and all the other soldiers of Karbala. The shrine of ‘Ali is located in Najaf, and visited everyday by Shia believers who come to pray and ask for ‘Ali’s intercession before God on their behalf. Unsurprisingly, those places of remembrance and memory are often targets of the Islamic State and have been destroyed

many times in conflict periods, because they do not hold official significance and have never been mentioned as memorials or proofs of Shia oppression during Karbala. The Shia population in Iraq makes its strongest efforts as the victim group to ensure that the memory of Karbala lives on, and has tried to build memorials with the knowledge and liberty that they can have in the midst of Islamic State occupation, in order to show that they will not forget their victimhood. During the period of 'Ashura for instance, Shias reconstructed small scenes of the battle of Karbala along the road, showing the most powerful and emotional moments of the battle such as the farewell of Hussain to Zainab and the murder of Hussain's young child. Mahdi Modarresi, a prominent scholar of Shia Islam, has expressed the need and importance to have a Karbala museum [137] in order to continue the processes of historical and cultural education. The creation of memorial sites and museums also makes a powerful statement for the empowerment of victim groups and previously marginalized communities, such as the Shia.

Memorials and museums are auratic places, or places that are directly connected to memories of repression, and their power resides in their permanence. Their general significance for the victims of human rights abuses is demonstrated by Sarah Jones in her analysis of the Berlin Stasi prison memorial, Gedenkstaätte Berlin-Hohenschönhausen, in which she shows "the importance of memorialization for victims of human rights abuses in terms of a personal and collective coming to terms with the past." [138] Truth commissions being the first step in acknowledging the abuses that occurred in the victims' past, it is only after the dissemination of victim memories to society at large and

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[137] On his Twitter account, Sayed Mahdi Modarresi (@SayedModarresi) posted pictures of representations of the Karbala saga along the road in Iraq, with the following caption: "simple, for useful representations of scenes from the saga of #ImamHussain. Yet another reason why we need a permanent Ashura exhibit." This tweet is from November 12, 2016.

[138] Jones, Sarah. 2015. "Simply a Little Piece of GDR History? : The Role of Memorialization in Post-Socialist Transitional Justice in Germany." *History and Memory* 27(1): 154-181.

the official acknowledgment of the perpetrators' wrongdoings that survivors feel a sense of inner healing. The materiality of the memorial, one that would not disappear or disintegrate, and its visual and tangible aspects are essential in the process of reconstructing memories of past experiences, and concretely coming to terms with what really happened. In the case of the prison memorial, one survivor relates that after coming back to the site of incarceration, he was able to confront the past and remember that his cell was made out of rubber. Another one felt empowered, as one of the functions of memorials is to give victims their dignity back, and give them moral power over their oppressors. The memorial did not just have an impact at the individual level, but also at the community one. It enabled the creation of communities of individuals who had shared similar experiences, and brought them together at a space that was especially offered for the creation of memorials for a specific community. The creation of memorials can contribute to the transitional justice process "in a context where (amnesty) is unthinkable and (punitive justice) unsatisfactory or incomplete." [139] In the case of Karbala, forgiveness may not be attainable mainly due to religious and imbedded attachments for Hussain, and punitive justice cannot be achieved simply due to the fact that the perpetrators are long dead. The creation of a memorial, a museum for instance, answers the call for justice that the community makes in its eulogies, salutations and commemorative processes.

To guarantee its official character, the creation of the main memorial museum in Karbala should be ordered by the government. If Iraq is still governed by the Shia majority, the process will be facilitated. However, if the party in power is Sunni, it must allow the building of a museum that recognizes the victimization of Shias, but also ensure

[139] Ibid.

the credibility of the monument by showing the responsibility of the perpetrators in a visible manner within its walls. The museum should display historical artifacts, letters, paintings and representations of the Karbala events, and explanatory video footages by experts and historians. It could also have exhibitions on the plight of Hussain's women and children, who were central actors of the conflict, and present the narrative of Karbala through a gender-based perspective, inspired from the facts that will be recollected from history. Along with the museum, the creation of an information center would be an effective way for visitors to get more explanation about Karbala through real-time conversations with Islamic history experts, or discussions with Shia volunteers about their beliefs and contemporary experiences through the memory of conflict. The creation of this memorial will symbolize formal recognition of the human rights abuses of Karbala, and give Shias a certain symbolic power over the groups that try to bury the memories of event. Most importantly, it will uphold the legacy of the conflict, and strengthen the collective memory of the group. In the midst of all the commemorative processes that the Shias carry out each year, a museum will be a microcosm of the process of remembering and stand as a physical place that will make a statement about the importance of memory, and will keep within its walls, the narrative of the past that the Shias never want to forget.

Recognition of an ancestral conflict through the means of historical commissions and memorialization has the potential to prevent future conflicts, particularly those that stem from past hatred and animosity. When the principal historical conflict is addressed, governments are able to prevent future outbreaks from occurring by understanding the roots of national divisions, and taking the necessary measures to prevent the reoccurrence

of a violent episode. Society also has a role in prevention. By accepting that past human rights abuses have occurred and after being confronted with actual memorials and physical structures of remembrance, a society's collective memory undergoes a transformation and incorporates the memories of past abuses, minimizing the latter's chances of reoccurrence and accomplishing the fourth goal of transitional justice, which is "a durable peace with assurance that a return to violence is unlikely." [140]

The past should not become an escape route from the present. The culture of remembrance, which includes the creation of memorials, films and exhibitions about the past, should empower and encourage states to address similar issues in present time rather than keeping the latter in an unproductive and inactive commemoration of history. Durable peace can be enforced in Iraq by honoring the victims of the past by thinking about the ways in which human rights can be applied in contemporary times. The establishment of a Karbala Commemoration Day, or any other day of common remembrance, would be a way to assemble Iraqi citizens from Sunni and Shia beliefs for a yearly recognition of past atrocities. It could feature round tables and think tanks during which citizens and experts would engage in debates and intellectual discussions regarding the preservation of human rights in Iraq, especially in the aftermath of Islamic State occupation and its policies, which include the enslavement of women and girls and the indiscriminate targeting of civilians, among other violations.

The case of former Yugoslavia demonstrates that institutional capacity building is a crucial aspect of sustainable peace, along with formal recognition mechanisms. A reform or rebuilding of the justice system, for instance, is a long-term and arduous task

[140] Kritz, Neil. "Policy Implications of Empirical Research on Transitional Justice," in Van der Merwe, Hugo et.al's *Assessing the Impact of Transitional Justice: Challenges for Empirical Research.* US Institute of Peace Press: 2009. Kritz is the United States Institute of Peace's senior scholar in residence.

but a necessary one in ensuring that the rule of law is respected and future conflicts have a lesser chance of taking place. Bosnia and Herzegovina, Montenegro and Macedonia have received assistance from the European Union and other international organizations to improve the rule of law, and have allocated high proportions of their budgets to the improvement of their judicial systems. The regions, along with Serbia, have also recognized that the non-application of domestic judicial decisions was a systematic problem and threatened the goal of long-term justice. Finally, the creation of independent human rights institutions is essential in ensuring a viable respect for human rights and social cohesion, through peace-building societal programs and informal forums for discussion. In former Yugoslavia, all states that faced conflict established various human rights institutions, but faced major obstacles that impacted those institutions' efficiency. In some cases, a reduction in the budget directly reduced the effectiveness of the organizations, and the non-implementation of the decisions issued by the human rights institutions discredited the latter's credibility. Strong support from the government is necessary to uphold the credibility of these mechanisms, and shows that national leaderships are ready to keep their promise to protect the rule of law and human rights in a state that has already lived through turmoil. In Iraq, the implementation of organizations that would learn from the Karbala narrative and follow up on the work of the historical commission, and the reinforcement of the judicial system after the transitional process regarding Karbala terminates would be appropriate ways to consolidate the guarantee of non-occurrence in the country, but the task at hand is enormous. The first step would be to redevelop an Iraqi-owned independent court system that would be accepted and trusted by the population. This task is particularly difficult in

Iraq, given its history under Saddam Hussein and more recently, the Islamic State. The previous regimes' policies have unsurprisingly caused a distrust in judicial institutions from Iraqis, an increase in corruption, inefficiency and intimidation in courts, and a lack of concern for human rights. The Higher Judicial Council of Iraq and the Iraqi Supreme Court are the two main judicial institutions that form the backbone of the legal system in Iraq. In order to ensure their efficiency, mechanisms must be put in place for prospective lawyers and judges, who should be trained according to Iraqi legal principles and general rules of impartiality. Biases in court decisions, based on religious animosity or difference in religious sects, must be slowly eradicated through the development of the rule of law. Participants in the judicial realm, including police officers or prison guards, must be sensitized and taught to report human rights abuses or instances of corruption by fellow colleagues. While this proposed plan cannot and will certainly not be successful in a short period of time, these basic first steps in the creation of a democratic judicial system seem to be primordial in a country where the rule of law has long been absent. It is only through the implementation of a trusted legal system in Iraq that the cessation of violence can be a hopeful long-term goal.

Conclusion

When historical conflicts are left unaddressed, future reoccurrences and the exaggeration of contemporary conflicts over old wounds and history animosity are more likely. Through the example of the Battle of Karbala, a central event in Shia Islamic history and identity, this thesis has tried to demonstrate that history is often at the heart of current national struggles, and one of the ways to reduce the impact of the past on

contemporary outbreaks is to address and recognize the original historical conflict through the mechanisms of transitional justice.

From Saddam Hussain's regime to the Islamic State today, Shia oppression has been encouraged by sectarian rhetoric and the instrumentalization of historical events, particularly the Battle of Karbala. The Islamic State has been quite vocal on Twitter regarding Ashura, and its supporters have threatened to attack the Shia holy cities of Najaf and Karbala, where 'Ali and Hussain's shrines are located respectively. In 2014, one supporter of the terror group tweeted, "Shiites, prepare yourselves for our bombs. Ashura is here and Karbala is not far anymore. Be patient devil Shiites." [141] The spokesman of the Islamic State has also vowed to wage war against Shia strongholds, warning in an audio recording from June 2014, "continue your march as the battle is not yet raging, it will rage in Baghdad and Karbala. So be ready for it." [142] Through its rhetoric and actions, the Islamic State proves that Karbala, which has never been formally recognized, is used as a tool of oppression against the Shias and enables the anti-Shia group to continue its persecution against the religious sect with impunity.

The mechanisms of transitional justice, which can be adapted to address remote historical conflicts such as Karbala, are efficient in providing recognition for past human rights atrocities and the victims' suffering, and thus, minimizing the reoccurrence or manipulation of historical events in contemporary times. Through the processes of historical truth commission and memorialization especially, Karbala can be formally addressed and Shias' call for recognition, possibly answered. Transitional justice has the

[141] Shiloach, Gilad. "There Will Be Blood: Ashura Pilgrims Brave ISIS Threats." *Vocativ*, Nov. 4, 2014, www.vocativ.com/world/iraq-world/isis-threatens-make-ashura-especially-bloody-year/.
[142] Sciutto, Jim et al. "Recording: ISIS Promises More Fighting in More Iraqi Cities." *CNN*, Cable News Network, 12 June 2014, www.cnn.com/2014/06/11/world/meast/iraq-violence/index.html.

potential to provide a conclusion for the historical transgressions in Karbala through the establishment of a common understanding of the conflict between Shia and Sunnis, a basis for future relationships between identity groups, an opportunity for historical dialogue, and the creation of a common narrative. Together, these elements make durable peace and security more attainable, along with the creation of a judicial system that gives primacy to impartiality and the rule of law.

Cited Works

Aghaie, Kamran Scot. *The Martyrs of Karbala: Shi'i Symbols and Rituals in Modern Iran*. Seattle: U of Washington, 2004.

Aghaie, Kamran Scot. 2005. "The Origins of the Sunnite-Shi'ite Divide and the Emergence of the Ta'ziyeh Tradition." *The Drama Review* 49.4: New York University and the Massachusetts Institute of Technology.

Al-Ghazali. *Ihya' Ulum al-Din.* Beirut: Dar al Kotob al Ilmiyah, 2008.

Al-Tabari. *The History of al-Tabari: The Caliphate of Yazid b. Muawiyah.* New York: SUNY Press, 1991.

Al-Qunduzi, Suleyman. *Yanabi al-Muwadda*, pg. 104.

Al-Sadr, Muhammad Baqir. *A General Outlook at Rituals: A Study in the Philosophy of Islamic Rites*. Washington, D.C.: Islamic Revival Movement, 1981.

Al-Tusi, Abu Jafar Muhammad ibn al-Hassan. *Sheikh Tusi's Book of Occultation.* Qum: Ansariyan Publications, 2012.

Assmaan, Aleida. "Four Formats of Memory: From Individual to Collective Constructions of the Past" in Emden and Midgley's *Cultural Memory and Historical Consciousness in the German-Speaking World since 1500.* Oxford: Peter Lang, 2004.

Aviña, Alexander. *Specters of Revolution: Peasant Guerrillas in the Cold War Mexican Countryside*. New York: Oxford University Press, 2014.

Barahona de Brito, Alexandra. "Transitional Justice and Memory: Exploring Perspectives," *South European Society and Politics* 15 (3): 359-371.

Barkan, Elazar. "Historical Dialogue and the Prevention of Atrocity Crimes." *Reconstructing Atrocity Prevention*. Cambridge University Press, 2015.

Barkan, Elazar. 2006. "Historical Reconciliation: Redress, Rights and Politics." *Journal of International Affairs* (60) 1: 1-15.

Barkan, Elazar and Alexander Karn. *Taking Wrongs Seriously: Apologies and Reconciliation.* Stanford: Stanford University Press, 2006.

Bassiouni, M. Cherif. "Postconflict Justice in Iraq." *Human Rights* 33.1 (2006).

Benari, Elad. 2014. "ISIS: Fighting 'Infidels' Takes Precedence over Fighting Israel." *Arutz Sheva.*

Bleeker, Mô. 2014. “The Contribution of Historical Commissions to Democracy and Diversity.” *Turkish Policy Quarterly* 13 (1): 53-64.

Bonacker, Thornsten, and Susanne Buckley-Zistel. "Introduction: Transitions from Violence – Analyzing the Effects of Transitional Justice." *International Journal of Conflict and Violence* 7.1 (2013): 4-9.

Brants, Chrisje, and Katrien Klep. 2013. “Transitional Justice: History-Telling, Collective Memory and the Victim Witness. *International Journal of Conflict and Violence* 7(1): 36-49.

Buckley Zistel, Susanne and Stefanie Schäfer “Memorials in Times of Transition,” in Susanne Buckley-Zistel and Stefanie Schäfer’s *Memorials in Times of Transition,* Cambridge: Intersentia, 2014. Schäfer is Assistant Professor of American Studies at Friedrich-Schiller-Universitat Jena in Germany.

Budryte, Dovile. “International Commission for the Evaluation of Crimes of the Nazi and Soviet Occupation Regimes in Lithuania” in Stan, Lavinia and Nadya Nedelsky’s *Encyclopedia of Transitional Justice Vol. 3.* Cambridge: Cambridge University Press. 2013.

Cockburn, Andrew. "Iraq's Oppressed Majority." *Smithsonian Magazine*. Smithsonian, Dec. 2003.

Cohen-Pfister, Lauren, and Dagmar Wienroeder-Skinner. *Victims and Perpetrators: 1933-1945: (Re)Presenting the Past in Post-Unification Culture*. De Gruyter, 2006: 209-210

Collier, Paul. *The Bottom Billion: Why the Poorest Countries Are Failing and What Can Be Done About It.* New York: Harper Perennial, 2009.

Convention (IV) relative to the protection of civilian persons in time of war.

Dancy, Geoff. 2010. Impact Assessment, not Evaluation: Defining a Limited Role for Positivism in the Study of Transitional Justice, *International Journal of Transitional Justice* 3 (4): 355–76.

Dominus, Susan. “Portraits of Reconciliation.” *The New York Times Magazine. https://www.nytimes.com/interactive/2014/04/06/magazine/06-pieter-hugo-rwanda-portraits.html*

Dulitzky, Ariel. "Memory, an Essential Element of Transitional Justice." *Peace in Progress* 20 (2014).

Engel, David. 2009. “On Reconciling the Stories of Two Chosen People.” *American Historical Review,* 114 (4): 914-929.

Freeman, Mark. *Truth Commission and Procedural Fairness*. Cambridge: Cambridge University Press, 2006.

Ghomi, Abbas. *Nafasul Mahmoom - Relating to the Heart-Rending Tragedy of Karbala*. Qum: Ansariyan Publications, 2005. Translation by Farideh Mahdavi-Damghani

Giberovitch, Myra. *Recovering from Genocidal Trauma: An Information and Practice Guide for Working with Holocaust Survivors.* Toronto: University of Toronto Press, 2014.

Gibney, Mark and Erik Roxstrom. 2001. “The Status of State Apologies.” *Human Rights Quarterly* 23(4): 911-939.

Gillis, John R. *Commemorations: The Politics of National Identity*. Princeton, NJ: Princeton UP, 1994.

“Grand Shia Cleric Sistani Issues Powerful Statement to Shia Resistance Defending Iraq - Digital Resistance.” *Digital Resistance*, 17 Feb. 2015, digital-resistance.com/insight/grand-shia-cleric-sistani-issues-powerful-statement-shia-resistance-defending-iraq/.

Grigor Suny, Ronald, Fatma Muge Göçek, and Norman M. Naimark. *A Question of Genocide: Armenians and Turks at the End of the Ottoman Empire.* Oxford: Oxford University Press, 2011.

Grodsky, B. 2009. “Beyond Lustration. Truth Seeking Efforts in the Post-Communist Space.” *Taiwan Journal of Democracy,* 5 (2): 21-43.

Hamber, Brandon, Liz Sevenko, and Ereshnee Naidu. 2010. “Utopian Dreams or Practical Possibilities? The

Challenges of Evaluating the Impact of Memorialization in Societies in Transition." *International Journal of Transitional Justice* 3 (4): 397-420.

Hamrah, Satgin. "Sectarianism and Conflict: Legacies of the Iran-Iraq War." *Journal of Middle Eastern Politics and Policy* (2016). *Harvard Kennedy School of Government.*

Hazelton, Lesley. *After the Prophet: the Epic Story of the Shia-Sunni Split in Islam.* New York, Doubleday, 2009.

Independent Commission of Experts Switzerland - Second World War (ICE). https://www.uek.ch/en/

Iraq: ISIS Kidnaps Shia Turkmen, Destroys Shrines. Rep. Human Rights Watch, 27 June 2014.

Jacobs, Janet. 2016. "The Memorial at Srebrenica: Gender and the Social Meanings of Collective Memory in Bosnia-Herzegovina." *Memory Studies:* 1-17.

Jeffrey, Olick K., and Coughlin, Brenda. "The Politics of Regret." *Politics and the Past: On Repairing Historical Injustices*. Lanham, MD: Rowman & Littlefield, 2003.

Joinet, Louis. 2001. "Lutte Contre l'Impunité: Le Temps des Questions." *Droits Fondamentaux* (1).

Jones, Sarah. 2015. "Simply a Little Piece of GDR History? : The Role of Memorialization in Post-Socialist Transitional Justice in Germany." *History and Memory* 27(1): 154-181.

"Justice Compromised: The Legacy of Rwanda's Community-Based Gacaca Courts." *Human Rights Watch,* 2011.

Kalyvas, Stathis. "The Ontology of "Political Violence": Action and Identity in Civil Wars." *Perspective on Politics* 1(3): 475-494. 2003.

Karn, Alexander M. "Depolarizing the Past: The Role of Historical Commissions in Conflict Mediation and Reconciliation." *Journal of International Affairs,* 60 (1): 31-50.

Kirkby, Coel. 2006. "Rwanda's Gacaca Courts: A Preliminary Critique." *Journal of African Law* 50(2): 94-117.

Korostelina, Karina V. "Peace Education and Joint History Textbook Projects" in Karina V. Korostelina and Simone Lässig's *History Education and Post-Conflict Reconciliation: Reconsidering Joint Textbook Projects*. Routeledge, 2013.

Kritz, Neil. "Policy Implications of Empirical Research on Transitional Justice," in Van der Merwe, Hugo et.al's *Assessing the Impact of Transitional Justice: Challenges for Empirical Research.* US Institute of Peace Press: 2009.

Lässig, Simone. "Peace Education and Joint History Textbook Projects" in Karina V. Korostelina and Simone Lässig's *History Education and Post-Conflict Reconciliation: Reconsidering Joint Textbook Projects*. Routeledge, 2013.

"Law and Human Rights in the Islamic Republic of Iran: A Report Covering Events Within the Seven-Month Period Following the Revolution of February 1979." *Amnesty International,* February 1980.

Magilow, Daniel H. 2007. "Counting to Six Million: Collecting Projects and Holocaust Memorialization." *Jewish Social Studies,* 14 (1): 23-39.

McGovern, Mike. "Popular Development Economics—An Anthropologist among the Mandarins." *Perspectives on Politics* 9(2): 345-355. 2011.

Micallef, Joseph V. *Islamic State: Its History, Ideology & Challenge.* Antioch Downs Press, 2015.

Mieth, Friederike. 2013. "Bringing Justice and Enforcing Peace? An Ethnographic Perspective on the Impact of the Special Court for Sierra Leone." *International Journal of Conflict and Violence* 7 (1): 10-22.

Mink, Georges. "Institutions of National Memory in Post-Communist Europe: From Transitional Justice to Political Use of Biographies (1989-2010)" in Mink, George and Laure Neumayer's *History, Memory and Politics in Central and Eastern Europe: Memory Games.* New York: Palgrave Macmillan, 155-170.

Minow, Martha. *Between Vengeance and Forgiveness: Facing History after Genocide and Mass Violence.* Boston: Beacon Press, 1998.

"Modern Conflicts: Conflict Profile - Iraq (Shia) (1979-1999)": 1-2. Political Economy Research Institute (University of Massachusetts Amherst).

Momen, Moojan. *Shi'i Islam.* London: Oneworld Publications, 2016.

Myers, Paul D. "Review: Muqtada: Muqtada Al-Sadr, the Shia Revival and the Struggle for Iraq." *Arab Studies Quarterly* 31.3 (2009): 55-57.

Ottendörfer, Eva. 2013. "Contesting International Norms of Transitional Justice: The Case of Timor Leste." *International Journal of Conflict and Violence* 7(1): 23-35.

"Over 50 Killed, Dozens Wounded in 3 Separate ISIS Attacks in Iraq." *RT International*, www.rt.com/news/362871-baghdad-shiite-suicide-bombing/.

Pettai, Eva-Clarita. "Interactions Between History and Memory: Historical Truth Commissions and Reconciliation" in Siobhan Kattago's *The Ashgate Research Companion to Memory Studies*. Farnham: Ashgate, 2015.

Pettai, Eva-Clarita. 2015. "Negotiating History for Reconciliation: A Comparative Evaluation of the Baltic Presidential Commission," for *Europe-Asia Studies,* 1-23.

Qadhi, Yasir. "The Massacre of Karbala: A Historical Analysis." *YouTube,* published by Yasir Qadhi Understanding Islam, 2014.

Report of the UN Secretary General, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies* (2004).

Rohde, Achim. "Learning Each Other's Historical Narrative- a Road Map to Peace in Israel/Palestine," in Karina V. Korostelina and Simone Lässig's *History Education and Post-Conflict Reconciliation: Reconsidering Joint Textbook Projects*. Routeledge, 2013, 177-190.

Rosenberg, Sheri P. et al. *Reconstructing Atrocity Prevention*. Cambridge University Press, 2015.

"Rwanda: Justice after Genocide - 20 Years on." *Human Rights Watch,* 2014.

Salehi, Mariam and Timothy Williams. 2016. "Beyond Peace vs. Justice: Assessing Transitional Justice's Impact on Enduring Peace Using Qualitative Comparative Analysis." *Transitional Justice Review* 1(4).

Sciutto, Jim et al. "Recording: ISIS Promises More Fighting in More Iraqi Cities." *CNN*, Cable News Network, 12 June 2014, www.cnn.com/2014/06/11/world/meast/iraq-violence/index.html.

Shiloach, Gilad. "There Will Be Blood: Ashura Pilgrims Brave ISIS Threats." *Vocativ*, 4 Nov. 2014, www.vocativ.com/world/iraq-world/isis-threatens-make-ashura-especially-bloody-year/.

Sirleaf, Matiangai V.S. "Beyond Truth and Punishment in Transitional Justice." *Virginia Journal of International Law* (52) 2: 225-288.

Spencer, Robert. "ISIS Muslim Cleric Tells Shia: "Allah Willing, We Shall Slaughter You Like Sheep." *Jihad Watch,* 2015.

Stan, Lavinia. "Truth Commissions in Post-Communism: The Overlooked Solution?" *The Open Political Science Journal* 2: 1-13.

Teitel, Ruti G. *Transitional Justice,* New York: New York University Press, 2000.

Universal Declaration of Human Rights. http://www.un.org/en/universal-declaration-human-rights/

Viebach, Julia. "*Alétheia* and the Making of the World: Inner and Outer Dimensions of Memorials in Rwanda," in Buckley-Zistel and Schäfer's *Memorials in Times of Transitions,* Cambridge: Intersentia, 2014.

Weiss M. and Hassan H. *ISIS: Inside the Army of Terror.* New York: Regan Arts, 2015.

Weiss-Wendt, Anton. 2008. "Why the Holocaust Does not Matter in Estonia." *Journal of Baltic Studies,* 39 (4): 475-498.

Weitz, Eric D. *A Century of Genocide: Utopian Race and Nation.* New Jersey: Princeton University Press, 2003.

Zyarat Ashura. https://www.al-islam.org/torch-perpetual-guidance-expose-ziyarat-ashura-ali-asghar-azizitehrani/arabic-english-text-ziyarat

Zyarat Nahiyah. http://www.duas.org/ziaratnahiya.htm